

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CALCUTTA BENCH, KOLKATA**

Contempt Petition (Civil) No.18/2003
in
Original Application No. 973/1996

Date of order: 10 March 2005

CORAM:

**HON'BLE MR. J. K. KAUSHIK, JUDICIAL MEMBER.
HON'BLE MR. M. K. MISRA, ADMINISTRATIVE MEMBER.**

1. Faijuddin son of Abed, resident of Village Madna, PO Raghunathpur, District Murshidabad.
2. Tofijul son of Montas, resident of Village Madna, PO Raghunathpur, District Murshidabad.
3. Esa, son of Ekramal, resident of Village Madna, PO Raghunathpur, District Murshidabad.
4. Samayun son of Nesjuddin, resident of Village Mangaljam, PO Ghorsala, District Murshidabad.
5. Khosrul son of Entaj resident of Village Chandanary, PO Sadikpur, District Murshidabad.
6. Mortuja son of Entaj resident of Village Chandanary, PO Sadikpur, District Murshidabad.
7. Asraful son of Montas, resident of Village Madna, PO Raghunathpur, District Murshidabad.
8. Youshop son of Neasuddin resident of village & PO Ghorsala, District Murshidabad.
9. Kashu son of Soleman, resident of village Prosadpur, PO Chhabghati, District Murshidabad.
10. Montoo son of Rabani resident of Village Aragi Gothe, PO Chadnichak East, District Murshidabad.

All the applicants worked as casual labour under PWI/Dhulianganga upto 1987.

...Applicant.

Ms. K. Banerjee, counsel for the applicants.

V E R S U S

1. Shri H.K. Padi, Chief Personnel Officer, Eastern Railway, 17, N.S. Road, Calcutta-1.
2. Shri U.K. Mangalik, Divisional Railway Manager, Malda, Eastern Railway, Malda, Dn. Malda.
3. Shri U.K. Kumar, Senior Divisional Personnel Officer, Eastern Railway, Malda Division, Malda.

...Respondents.

Mr. P.K. Arora, counsel for the respondents.



ORDER

Per Mr. J.K. Kaushik, Judicial Member

Sh. Faijuddin and nine others have filed this Contempt Petition (Civil) under Section 17 of Administrative Tribunals Act, 1985 therein. The applicants have complained the non-compliance of the order dated 4-9-2001 which came to be passed in OA No.973/1996 wherein this Bench of the Tribunal was pleased to pass the following order: -

"16. Consequently, it is directed that the respondents shall consider the applicants for their re-engagement as labour/gangmen as and when a decision is taken to engage the casual gangmen/casual labour for the job under the PWIs. In that case, the cases of the applicant shall be considered in order of their seniority in the list 'C' and such persons who are found to be suitable should be re-engaged.

17. The applications stands disposed of accordingly. No order as to costs".

2. The C.P. is grounded on multi grounds by repeating the factual aspects of the case on the basis of which the OA came to be decided. It has been averred that there are number of vacancies for Gangmen in Class IV category under PWI Barharwa, PWI Sahebganj, PWI, Bhagalpur and PWI, Jamalpur but the applicants are being deprived of absorption. The work is being done by casual labourers which are engaged through railway contractor in violation of the Contract Labour (Regulation and Abolition) Act, 1970. Certain details regarding availability of vacancies have been adduced.

3. In the counter, it has been averred that as a matter of policy, the project work is being taken through the contractor and the policy decision which is based on the reports of the Expert Committee which cannot be interfered by this Tribunal. It



is also averred that Maldah Division had notified calling applications for pre-1.1.1981 dormant casual labourers and about 154 applications were received out of which only 58 candidates were found to be confirming to the physical standards. However, the Committee did not find even a single applicant having genuine records to authenticate the claim. Certain surplus staff have been posted on rehabilitation and appointed as Gangman in Engineering Department. The policy in the railway to engage the casual labour has been dropped. The Railway Board had put a ban on engagement of the casual labourer and the said work is being done only through the contractor as per Recruitment Policy framed by the Railway Board.

4. The learned counsel for both the parties have reiterated the facts and grounds indicated in their respective pleadings. The learned counsel for the applicants has strived hard to demonstrate us that the order of this Bench of the Tribunal is being deliberately and intentionally flouted. On the other hand, learned counsel for the respondents has contended that such is not the situation and the respondents have every regard to the orders which are passed by this Bench of the Tribunal or for that purpose any Court of Law. He has reiterated the defence of the respondents as noticed above.

5. We have considered the submissions made in this Contempt Petition. While there can be no dispute that the orders have been issued for not inducting the fresh casual labourers in the railways but the applicants are not fresh casual labourers



and the question of their non-engagement does not arise. However, the respondents have taken the shelter of a policy decision for getting the work of the project done up through the contractors. Whether the action of the respondents is right or wrong cannot be adjudicated in the C.P., which has a very limited scope. Keeping in view the entire facts and circumstances of this case and the order which came to be passed by this Bench of the Tribunal, we are of the considered opinion that there has been no deliberate or intentional disobedience of the order passed by this Bench of the Tribunal. In this view of the matter, the C.P. does not survive and the same has to be dismissed, which we do so accordingly. Notices earlier issued of this C.P. are hereby discharged but with no order as to costs. However, the applicants shall have liberty to file fresh Original Application for redressal for their grievances as may be advised to them and this order shall not come in their way.


[M. K. MISRA]
ADMINISTRATIVE MEMBER


[J. K. KAUSHIK]
JUDICIAL MEMBER

Kumawat