

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. CPC 24 of 1998
(O.A. 1154 of 1996)

Date of Order : 9.4.1999

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.
Hon'ble Mr. B.P. Singh, Administrative Member.

NILADRI SEKHAR DATTA

Vs.

A.L. INGARAJ
(POST)

For the applicant : Mr. S.N. Dutta, counsel.

For the official respondents : Mr. S.K. Dutta, counsel.

ORDER

S.N. Mallick, V.C.

When this contempt petition filed by the applicant is taken up for hearing, ld. counsel appearing for the applicant and for the official respondents have made certain submissions which we record in the following order :

(1) The present applicant filed O.A. 1154 of 1996 before this Tribunal on 19.9.1996 challenging the appointment of private respondent no.8 in the post of E.D.D.A. at Nalbona Branch Post Office. The said application after a contested hearing, was disposed of by an earlier Bench of this Tribunal by the order dated 17.12.1997. In that order while observing that the applicant

cannot have any case, the Bench disposed of the application with the following directions -

"In view of the above and in overall view of all the relevant facts, we allow the petition in part and dispose of the same with the following orders :

(i) The impugned selection and consequential appointment of respondent no.7 as E.D.O.A., Nalbona Branch Post Office is forthwith quashed, as prayed for by the petitioner.

(ii) But it does not automatically give any consequential relief to the petitioner for his own appointment and selection.

(iii) The official respondents shall make fresh selection from amongst the candidates who had appeared for earlier selection strictly in accordance with the rules and in the light of interpretation given above and on the basis of such selection, appointment shall be given to the appropriate candidate accordingly."

It may be noted that the appointment of private respondent no.8 was cancelled by the above order although by typographical error it was noted that the appointment of respondent no.7 was cancelled. Respondent no.7 is the Officer-in-Charge, Goaltore Police Station and as such it cannot be said that appointment was given to him in the above mentioned Post Office.

Be that as it may, the present applicant has filed this contempt petition on the ground that the respondents have not carried out the directions given by the Bench as per Clause (iii) of paragraph 14 of the order dated 17.12.1997. It may be recalled that this Tribunal directed the respondents to make fresh selection from amongst the candidates who had appeared for the earlier selection strictly in accordance with the rules and in the light of interpretation given above on the basis of such selection, appointment was to be given to the appropriate candidate accordingly.

(ii) Admittedly, the respondents while complying with the order of this Tribunal, made a fresh selection and have appointed one Arun Kumar Mondal in the above post who was one of the candidates in the earlier selection.

(iii) Mr. S.N. Dutta, the ld. counsel appearing for the applicant submits that the respondent-authorities did not make the fresh selection according to rules and appointed the aforesaid Arun Kumar Mondal mechanically as his name was mentioned by the Bench in the aforesaid judgment and order in O.A. 1154 of 1996 (vide paragraph 10).

(iv) It is also admitted that the private respondent no. 8 challenged the above order of this Tribunal before the Hon'ble High Court at Calcutta by filing a writ application which was dismissed in limine by a Division Bench as per order dated 8.9.1998. A copy of this order has been produced before us which may be kept with the record.

(v) Mr. S.N. Dutta has admitted that his client i.e. the present applicant has also moved the Hon'ble High Court challenging the final order of this Tribunal dated 17.12.1997 in CO CT 6 of 1998 which is still pending.

2. In view of the above facts and circumstances, we are of the view that the applicant has taken altogether two inconsistent stands before us. He has come up to urge contempt proceeding to be drawn up against the respondents for not complying with the order of the Bench dated 17.12.1997 which has again been challenged by him in writ jurisdiction in the aforesaid writ application. In our view, both cannot go together.


3. In this connection we record that Mr. Samir Ghosh, ld. counsel, has appeared today to intervene in this matter on behalf of Arun Kumar Mondal who has been appointed in the said post by the respondent-authorities in compliance with this Tribunal's order. He has not, however, filed any application.


4. Be that as it may, we have gone through the reply filed on behalf of the official respondents, the alleged contemners, in this connection. It has been stated there that the appointment has been given in strict compliance with the rules following the directions of this Tribunal. Whether the extant rules have been followed or not and whether the respondents have followed the

correct procedure is a subject matter of a separate O.A., which cannot be, in our view, agitated in this contempt petition.

5. The instant contempt petition has no merit. Accordingly, it is dismissed. We do not find any substantial reason to initiate a contempt proceeding *against the respondents*.

6. No order is passed as to costs.


(B.P. Singh)
Administrative Member


(S.N. Mallick)
Vice-Chairman

r.s.