

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Civil contempt Petition No.103/2004

In

Original Application No.508/1996

C.W.

Original Application No.511/1996

C.W.

Original Application No.549/1996

This, the 31st day of July 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

HON'BLE MR SHAILENDRA PANDEY, MEMBER (A)

1. Raj Kumar Sonkar, son of Sri Hanuman Prasad Sonkar, Resident of 5th Gali, Nishatganj, Lucknow.
2. ^R~~Raj~~ Kumar, son of Sri Moolchand, resident to f 48/12 Nagaria Thakurganj, Lucknow.
3. Raju son of Sri Lallan, resident of House No.63, Imambara Agah Baqer, Lucknow.
4. Shamshad son of Late Chunnu, resident of 120/96 Merukhan Ki Sarain, Baldari Lane, Lalbagh, Lucknow.
5. Arvind Kumar, son of Sri Bhagwat Ram resident of 535-Ka/106, Indrapuri, Sitapur Road, Lucknow.

Applicant.

By Advocate:- Shri Surendran P.

Versus.

1. Sri V.P., Singh, Director of Postal Services, Lucknow Region, Lucknow.
2. Sri O.P. Verma, Chief Post Master, General Post Office, Lucknow.

... Respondents.

By Advocate:- Shri Q.H. Rizvi.

ORDER**BY MR. M. KANTHAIAH, MEMBER (J)**

The applicants have filed this C.C.P. under Section 17 of Administrative Tribunal Act, 1985 stating that the respondents have intentionally and willfully disobeyed the orders of this Tribunal, which was upheld by the Hon'ble Supreme Court.

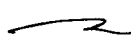
2. The respondents have filed Counter Affidavit, stating that there was no disobedience of the orders of the Tribunal and also Hon'ble Supreme Court and thus prayed for dismissal of the C.C.P.

3. Heard both the parties.

4. The point for consideration is whether the applicants are entitled for the relief as prayed for.

5. The admitted facts of the case are that the applicants have filed their respective OAs, claiming their regularization. Upon which, this Tribunal by way of common order Annexure-A-1 Dt. 25.04.2001, allowed their claims, which reads as under:-

"Having regard to the existence of non-test category Class-IV posts, on which the applicants were earlier engaged, when no regular selection has been made against these posts by the respondents, on the basis of the ratio laid down in the aforementioned cases, we allow these O.As. With a direction to the respondents to reengage the applicants forthwith and whether any selection takes place, the applicants shall be considered for regular appointment alongwith other eligible candidates as per rules,"



6. Against the said judgment, the respondents preferred W.P.No.1300 (SB) of 2001 and the same was allowed and the impugned order of the Tribunal Dt. 25.04.2001 was set aside. Annexure-2 is the copy of the judgment passed by Hon'ble High Court Dt. 28.11.2002. Thereafter the applicants preferred S.L.P. (Civil) (CC) No.4137/2004 and the same was dismissed on 05.07.2004 (Annexure-3) as follows:-

"The special leave petitions are dismissed. However, it made clear that the observations of the Central Administrative Tribunal made in the last paragraph of the order to the effect that "the applicants shall be considered for regular appointment alongwith other eligible candidates as per rules, whenever selection takes place" shall remain."

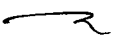
7. Now the applicants have filed the present C.C.P. stating that the respondents have disobeyed the orders of the Tribunal covered under Annexure-A-1 and the Hon'ble Apex Court covered under Annexure-3 in respect of their regular appointment.

8. It is the contention of the applicants that the Respondent No.2 conducted DPC and promoted one Bhagwati Prasad Joshi, and ignored them for consideration for regular appointment, and relied Annexure-A-5 Dt. 09.11.2004, in respect of promotion order of Bhagwati Prasad Joshi. They also further contended that Respondent No.2 appointed one Sajjan Kumar, as daily wages employee and filed a copy of such order Dt. 30.09.2004 as Annexure-A-6. They also further contended that the Gradation list of Group 'D' employees corrected up to

31.10.2003 shows that number of posts in Group 'D' cadre are vacant and available i.e. three posts of Mali, 4 posts of Farrash and 5 posts of Safaiwala. Though, they have worked as Mali, Farrash and Safaiwala and inspite of availability of sufficient number of vacancies/ posts, the respondents are not considering them for regular appointment.

9. The respondents have filed Counter Affidavit, stating that at present due to ban on recruitment, the names of the applicants have been kept on record and whenever appointment on regular basis are made they shall be considered alongwith other eligible candidates as per rules and in compliance of this Tribunals order Dt. 25.04.2001.

10. In respect of the regular appointment, it is the specific case of the respondents that there is a ban for regular appointment and after lifting the ban they will consider the claim of the applicants for their regular appointment alongwith other eligible candidates as per rules. In respect of appointment of Sajjan Kumar, they have stated that he was appointed as a temporary arrangement in urgent need and subsequently, he was also discontinued. In such circumstances, it is not correct to say that Sajjan Kumar was appointed on regular basis. In respect of availability of vacancy, mere availability of vacancy does not create a right to these applicants because of ban on recruitment and in such circumstances, finding fault with the respondents that they have disobeyed the orders of the Tribunal covered under Annexure-1 and Hon'ble Apex Court covered under Annexure-3 is not at all justified. Thus, there are no merits in the claim of the applicants to say that the respondents have committed any act of contempt and as



such, application is liable for dismissal. In respect of the appointment of Joshi, it is the contention of the applicants that he was promoted to Group 'D' post from regular GDS post and it is not their case that he was appointed by way of regular appointment, to find fault with respondents.

Hence, the C.C.P. is dismissed. Notices are discharged.



(SHAIENDRA PANDEY)
MEMBER (A)



(M. KANTHAIAH)
MEMBER (J)

31-07-2008

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