

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, MUMBAI-1

C.P.No.69/96 & M.P.No.600/96 in
O.A.No. 574/96

DATED: THIS 25th DAY OF SEPTEMBER 1996

Coram: Hon. Shri B.S. Hegde, Member (J)
Hon. Shri M.R. Kolhatkar, Member (A)

S.Z. Jagtap ..Applicant

V/s.

U.O.I. & Orgs.

..Respondents

ORDER

Heard Mr. G.S. Walia, Counsel for the Applicant and Mr. V.S. Masurkar, Counsel for the Respondents. The Tribunal vide its order dated 15.7.96 granted an ex-parte ad-interim order after hearing the submissions of the Ld. Counsel for the Applicant to the effect that status quo as of that date to be maintained. The Ld. Counsel for the Applicant has also drawn our attention to the earlier order passed on 24.3.95 in O.A. No. 107/95. The Tribunal while disposing OA No. 107/95 has passed the following order:

" It is apparent that the action taken by the order dated 23.1.1995 reverting the applicant in the guise that he had been erroneously extended the benefit of double ad-hoc promotion was taken without giving an opportunity to the applicant to show cause against that action, though it was prejudicial to the applicant. The order dated 23.1.1995

Contd.:

is quashed. Liberty to the Respondents to take action, if so advised, after giving an opportunity to the applicant to show cause against the intended action"

Pursuant to the direction of the Tribunal the Respondents vide their letter dated 1.4.96 issued a show cause notice stating why he should not be reverted to the post of Janitor scale Rs.950/-1500(RPS) as the double ad hoc promotion is not permissible within the extant rule, and asked him to give his representation within 10 days of receipt of the same. The Applicant made a representation on 12.4.96 urging that the reversion order passed by the respondents is not valid in law and sought for certain particulars from the Respondents. After considering the representation of the applicant the respondent has passed the final order on 22.6.96 stating that Shri S.Z. Jagtap, Janitor Scale Rs.1400-2300(RP) under CWM-PL who was erroneously extended the benefit of double ad hoc promotion is now reverted with immediate effect to Janitor Scale Rs.1200-2040(RP) on pay Rs.1320/- and retained under CWM-PL, vide Shri Mayabhai P. Janitor (Ex.Sr.Clerk under CWM/PL).

2. The Applicant has filed this O.A. on 12.7.96 and obtained ex-parte ad interim order on 15-7-96. The Respondents have filed their reply on 2.9.96 contending that the O.A.No.107/95 was disposed of at the admission stage itself on 24.3.95 and

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the Tribunal had granted liberty to the respondents, to take action, if so advised, after giving an opportunity to the applicant to show cause against the intended action. The applicant has been given (a) show cause notice. He made detailed representation replying the contention of the show cause notice. Respondents after considering the reply of the applicant passed the final order on 22.6.96. According to the said order the applicant stands reverted on 22.6.96 itself, and the ad-interim relief or interim relief will not come to his rescue and since there is no merit in the application of the applicant the same is required to be dismissed. Respondents further submitted that they have followed the direction of the Tribunal in its true spirit and passed the final order on 22.6.1996. (The) applicant (has) furnished the impugned (order) dated 22.6.96 as Exhibit A-1 to the O.A. and the contents of which do not tally with the order dated 22.6.96 annexed by the Respondents (to) their reply as (Exhibit) R-VI referred to above. The Respondents further submitted that the order dated 22.6.96 was served on the very day itself to the applicant and therefore the applicant (stood) reverted on the same date, therefore the present application filed on 12.7.96 will not come to his rescue. Id. Counsel for the respondents brought to our attention that the applicant cannot claim this post as a matter of right because he does not belong to the category of the post of Janitor, as he was appointed as Hospital Attendant and thereafter he was promoted to officiate

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as Junior Clerk. He was posted as Janitor purely on ad-hoc basis from 3.7.84 based on his own request made through his application dated 15.5.84. Therefore it is contended that he cannot claim this post as a matter of right, as he was initially appointed in the scale of Rs.260-400(R) as Janitor on 3.7.84 and subsequently promoted as Janitor in the scale of Rs.330-560(R). Again on ad hoc basis on 24.10.86 he was promoted as Janitor in the pay scale of Rs.1400-2300 and all these ad hoc services do not confer any right or benefit on the applicant.

3. The applicant has filed a M.P.No.610/96 urging that the order passed by the respondents vide 9.8.96 be stayed. The Tribunal after hearing the parties had observed that the status quo as on 15.7.96 is required to be maintained. Whether the order dated 9.8.96 violates the status-quo, would be a matter of contempt petition which will have to go before an appropriate Division Bench. Accordingly he has filed C.P. No. 69/96 in OA No.674/96 stating that the respondents have violated the ex-parte interim order passed by the Tribunal. The Tribunal after hearing the parties passed order dated 19.8.96 that the M.P. and C.P. would be heard together.

4. The question to be considered here is whether the C.P. filed by the applicant is sustainable in law. His main contention is that the order passed by the Respondents on 9.8.96 contrary to the ad-interim

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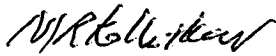
order passed by the Tribunal, vide dated 31.7.96 whereby he has per-force file the C.P. The fact that remains to be determined is whether the department has passed that order pursuant to the direction of the Tribunal. However, the respondents order dated 22.6.96 was not brought to the notice of the Tribunal at the time of passing the ex-parte ad interim order. The Tribunal had only granted 'status quo' as of that date. Since the applicant had already been relieved from the said post, the question of status quo-ante does not arise.


5. In the circumstances we are of the view, that there is no contempt on the part of the respondents. In the result both the C.P. as well as M.P. are disposed of.

Ex-parte ad-interim order also stands vacated.

O.A. ADMITTED.

List the case before Registrar on 26-11-96 for completion of pleadings and thereafter keep in sine die list.


(M.R. Kolhatkar)
M(A)


(B.S. Hegde)
M(J)