

(88)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Transfer Application No. 241/86

C.P. No. 69/92

Tribunal's Order

Date : 15-02-94

Heard Shri D. V. Gangal with Shri G.D. Samant for the applicants and Shri M.I. Sethana with Shri P.M.A. Nair for the respondents.

By our order dated 08-02-1994 we had directed the Chairman, Railway Recruitment Board, C.P.O., Western Railway and C.P.O., Central Railway to file affidavits explaining the action taken by them in pursuance of our order dated 16-10-1993 which itself arose out of T.A. 241/86 decided by us on 14-02-1991. We had also directed that in case of delay in taking action to comply with our orders, Chairman R.R.B., and ~~the~~ C.P.O.^{is} Central Railway and Western Railway may remain present personally in the Court. Today the learned counsel for the alleged contemners has brought to our notice that Shri R.R. Kohli, Chairman Railway Recruitment Board, Bombay, Shri Rajendra Nath, Chief Personnel Officer, Central Railway and Shri Baweja C.P.O. Western Railway, are present in the court. They have also filed affidavits before us. So far as affidavits of Shri S. B. Mathur, General Manager, Western Railway and Shri Rajendra Nath, Chief Personnel Officer, Central Railway are concerned, apart from dis-avowing any intention to disregard the instructions of the Tribunal, their main contention is that they could not proceed in the matter in the absence of receipt of lists of candidates from the Chairman, R.R.B. We notice that Chairman R.R.B. in his turn has stated in para 5 of his affidavit that since implementation of the orders of the Tribunal

(24)

involved far-reaching consequences involving matters of law and policy laid down by the Railway Board, there was protracted correspondence and frequent discussions with the Railway Board officials, there was therefore delay in keeping in touch with and filing the affidavits as directed by the Hon'ble Tribunal in their earlier orders dated 20-12-1993 and dated 08-02-1994. Apart from tendering un-conditional apology and seeking pardon for inability to send list of candidates to Central and Western Railway's Chairman, R.R.B. has sought directions in view of stay of C.F. by the Supreme Court on 14-02-1994 as per message received from Law Ministry. We reproduce below relevant portion of the message.

" The above special leave petition preferred against the order dated 06-10-1993 passed in the contempt petition was mentioned before their Lordships Hon'ble Mr. Justice A.M. Ahmadi, Hon'ble Mr. Justice R. M. Sahai and Hon'ble Mr. Justice N. Venkatachaliah today the 14th Feb. 1994. After hearing the arguments the Court was pleased to stay the contempt proceedings and fixed the date of hearing for the special leave petition on 18th March, 1994."

The counsel for the alleged contemnors, therefore, prays that the alleged contemnors may be discharged and further proceedings in the C.F. 69/92 may be stayed pending the decision of the Hon'ble Supreme Court in SLP which is scheduled to come up on 18-03-1994.

Shri Gangal, counsel for the Original Applicants has pointed out that the Hon'ble S.C. has not stayed the judgement of this Tribunal in T.A. 241/86. It has only stayed the contempt proceedings and therefore while discharging the alleged contemners, it is open to the Tribunal to proceed further in the matter by issuing directions to the Railway authorities to give provisional appointments to the original applicants, in terms of this Tribunal's Order dated 14-02-1991 and also direct the respondents to file a detailed affidavit as to the action taken by them in terms of the orders passed by this Tribunal in the O.A. According to Shri Gangal who relies on Full Bench judgement of the C.A.T. in Gangaram Vs. Union of India, of which the head note reads :

"Effect of a non-speaking interim order of S.C. to staying the operation of impugned judgement-Whether this order has the effect of reversing the Full Bench decision. Held the order was not binding under Article 141 and decision of Full Bench remains effective."

The learned counsel for the alleged contemners argued that the stay granted by the S.C. in the contempt proceedings has the effect of staying the implementation of the orders of this Tribunal in the T.A. as well and he opposed the prayer of Shri Gangal.

We note that CP 69/92 in T.A. 241/86 was disposed by the orders of this Tribunal dated 06-10-1993, and orders dated 20-12-1993 and dated 08-02-1994 were a sequel to the earlier order by way of dealing with M.P. No. 69/92. We have ^{of the counsel} considered the contention that the C.P. having

(91)

been concluded by order dated 06-10-1993, what is stayed by S.C. is these proceedings in M.P., in particular as they relate to proceedings against departmental officers for alleged contempt. In our view our orders dated 20-12-1993 and 08-02-1994 were in pursuance of orders dated 16-10-93 in C.P. 69/92ⁱⁿ which merges ~~in~~ the order in T.A. 241/86 dated 14-02-1991. It is therefore not possible for us to hold that the S.C.'s stay of the C.P. leaves our original order intact. All the 4 orders having merged together, we hold that stay granted by the S.C. in SLP on 14-02-1994 has the effect of staying operation of order in T.A. 241/86 ^{which merges} ~~with~~ with order in C.P. 69/92 apart from MP 969/92. We have also considered the Ganga Ram judgment referred to by Shri Gangal which, in our view does not apply to the facts of the case.

We, therefore discharge the alleged contemners in C.P. 69/92 and in particular those called to the court today viz. Shri R.R. Kohli, Chairman, Railway Recruitment Board, Bombay Shri Rajendra Nath, Chief personnel Officer, Central Railway, Bombay and Shri Baweja C.P.C., Western Railway, Bombay and direct that further proceedings in this case will remain stayed till the decision of S.C. in SLP is available. As the SLP has been fixed for 18-03-1994, put up on a date shortly thereafter viz. 22-03-1994.

(Smt. Lakshmi Swaminathan)
Member (J)

(M. R. Kolhatkar)
Member (A)

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