

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

CONTEMPT PETITION NO. 15 OF 1996

IN

O.A.NO.1313 OF 1992

Shri Rajaram Sadashiv More & Ors ..... Applicants

V/S

Union of India & Ors ..... Respondents

REPLY OF THE RESPONDENTS TO THE CONTEMPT PETITION

MAY IT PLEASE THIS HONERABLE TRIBUNAL :

1. At the outset the Respondents submit that the applicants in this application had prayed for a direction for regularisation and regular absorption by virtue of their putting in service in leave vacancies from time to time. This Hon'ble Tribunal vide its judgements and orders dated 23.08.1995 and 26.09.1995 was pleased to direct the Respondents to prepare a seniority list of the applicants based on the date of their initial appointment and on that basis offer employment to the applicants whenever a vacancy occurs relaxing the age limit if the applicants have been appointed initially when they were within the age limit prescribed for the post. The Respondents were further directed that these persons after such appointment may then be regularised in the available vacancy according to their turn. This Hon'ble Tribunal had also directed the Respondents not to fill up the vacancies by bringing in employees from other stations for showing that no vacancies exist. Accordingly, 95 out of the 102 applicants have

already been given appointments and have joined duty on 03.04.1996. One applicant has since died and the postal acknowledgement for the remainder six applicants offering appointment are available in record. As such, it is assumed that the balance have already got appointments elsewhere and are not interested in the appointment offered. The Respondents therefore submit that they have not committed contempt of any of the orders of this Hon'ble Tribunal and have given employment to all the applicants who have reported and they have joined duty. As such, the Contempt Petition may be dismissed as it is without any basis. However, the points raised in Contempt Petition are replied to in the succeeding paras. They have no relevance as the orders of the Hon'ble Tribunal have already been fully implemented. The petitioners themselves have admitted in this Contempt Petition that no more appointments have been made after the passing of the orders. However, the Respondents submit that the employment which was offered to Shri Mahesh Charolkar, Shri Karunanidhi Padmanabhan and Shri Shivaji Shankar Kale was as daily wage workers and they were not appointed in the posts which were to be offered to the applicants. Respondents submit that these were not regular vacancies. Since the Respondents have already absorbed all the applicants on regular basis as mentioned above, their entire cause of action does not survive. In view of these submissions this Hon'ble Tribunal be pleased to dismiss this Contempt Petition with costs.

2. With reference to paras 1, 2, 3 and 4 of the Contempt Petition, the Respondents have no comments to offer since all these are matters on record.

3. With reference to para 5 of the Contempt Petition, the Respondents deny that they have violated and/or disobeyed any of the orders of this Hon'ble Tribunal and submit that on the contrary they have left no stone unturned in order to ensure the regular absorption of the applicants and as stated above, all the 95 applicants who reported in response to offer of employment have been given appointments on 03.04.1996.

4. With reference to para 6 of the Contempt Petition, it is submitted that the reference to the employment of Shri Mahesh Charolker, Shri Karunanidhi Padmanabhan and Shri Shivaji Shankar Kale is mis-represented. These individuals were offered job as daily wage workers on purely temporary basis in the capacity of casual labourers. Hence no vacancy was utilised by them and our efforts had been to fill regular vacancies by employing the applicants, once Government approval was accorded by waiving the existing ban on recruitment. In view of the Respondents endeavour to appoint these applicants in regular posts, the entire cause of action of the applicants does not survive as complete implementation and honour of the judgement of this Hon'ble Tribunal has already been done by employing the applicants.

7. With reference to para 10 of the Contempt Petition, the Respondents submit that Shri Chetan R Jadhav had been appointed as a Mess Waiter on 30.10.1995 in view of the indigenous circumstances in his family as his father died in harness and the said appointment has been on compassionate grounds. There is a provision to employ such persons on extreme compassionate grounds in exception to existing ban on recruitment. The Respondents further submit that this appointment on compassionate grounds was not to have any bearing on appointments of the applicants which is evident from the fact that all of them have been offered employment. This Hon'ble Tribunal will definitely appreciate the humanitarian gesture and social responsibilities towards our own employees, especially the employee who dies in harness. The appointment of Shri Jadhav on compassionate grounds thus does not attract the provisions of the judgement of this Hon'ble Tribunal.

8. With reference to para 11 of the Contempt Petition, the Respondents submit that in view of what is stated in paras above this Hon'ble Tribunal would be fully convinced that the Respondents have obeyed all the orders of this Hon'ble Tribunal.

9. With reference to para 12 of the Contempt Petition, the Respondents submit that in view of the circumstances and reasons as explained above, they have not violated the orders of the Hon'ble Tribunal. The following points are reiterated for the kind perusal of the Hon'ble Tribunal:-

5. With reference to para 7 of the Contempt Petition, the Respondents deny the contents thereof and submit that they have never flouted any of the directions of this Hon'ble Tribunal. On the contrary it is submitted that the seniority list of the applicants as per the directions of this Hon'ble Tribunal was prepared and sent to Army Headquarters for according sanction for appointment which was to take sometime since a large number of applicants was involved in the matter and various procedural requirements of the Government orders had to be met before appointing the applicants. The Respondents further submit that this Hon'ble Tribunal would appreciate that in order to ensure expeditious implementation of the orders of this Hon'ble Tribunal, an officer of the rank of Lt Col was deputed to the Army Headquarters for making personal liaison with all concerned agencies to expedite sanction for appointment of the applicants and accordingly the sanction was accorded and the applicants have been appointed. Hence, no cause of action survives and this Contempt Petition therefore deserves to be dismissed with exemplary costs.

6. With reference to paras 8 & 9 of the Contempt Petition, the Respondents vehemently deny the contents thereof and submit that the undermentioned individuals had been rendered surplus at the Military Farm, Pimpri and had reported to the National Defence Academy under the surplus deficiency scheme on the dates as shown against their names:-

<u>Ser No</u>	<u>Name of the individual</u>	<u>Date of reporting at NDA</u>
1.	Manshingh Bansilal	19.08.1995
2.	Vijaysingh Ameritlal	-do-
3.	Gyansingh Bhuiyadin	-do-
4.	Mangru Santaram	-do-
5.	Ramawadram Rampatiram	-do-
6.	Shivsaran Shivbalak	-do-
7.	Balu Santaram	-do-
8.	Maniram Ramsumer	-do-
9.	Bindarparsad Khunnulal	-do-
10.	Kanchan Chedilal	-do-
11.	Bachoulal Ramdhani	-do-
12.	Mangal Rajjan Yadav	21.08.1995
13.	Ramchander Bachulal	26.08.1995

It will be seen from the dates above that all the 13 individuals had reported to this Academy on the dates prior to receipt of this Hon'ble Tribunal orders of 23.08.1995 (copy received by this Academy on 29.09.1995) and of 26.09.1995 (copy received by this Academy on 18.10.1995). As such, no orders of this Hon'ble Tribunal have been violated. In view of these submissions, this Hon'ble Tribunal be pleased to dismiss this Contempt Petition with costs.

(a) The names mentioned in para 6(a) to 6(c) of Contempt Petition i.e. Shri Charolkar, Shri Padmanabhan and Shri Shivaji Shankar Kale were appointed on "casual daily wages" and they were not against regular vacancies. The judgement clearly lays down that regular vacancies are to be offered to the applicants.

(b) The names mentioned in para 8 of Contempt Petition reported to NDA from Military Farm, Pimpri under surplus deficiency scheme prior to the receipt of judgement of Hon'ble Tribunal.

(c) The appointment mentioned in para 10 of the Contempt Petition i.e. Shri Chetan R Jadhav has been on compassionate grounds which did not affect the appointment of the applicants in any manner whatsoever, since there were still sufficient vacancies to accommodate all applicants.

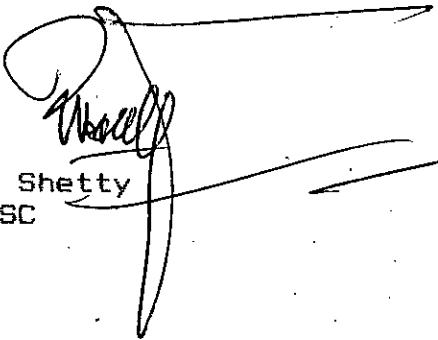
(d) All efforts were made to implement the judgement. The seniority list as per directions of the Hon'ble Tribunal was prepared. An officer was also detailed to Army Headquarters, New Delhi to expedite sanction for appointment of the applicants and all the applicants have been offered employment after obtaining the sanction.

In view of these submissions this Hon'ble Tribunal be pleased to dismiss this Contempt Petition with exemplary costs.

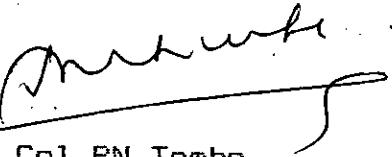
10. All statements, submissions and/or contentions of the applicants in this application which are contrary to and/or inconsistent with what is stated in paras above are denied as if each such statement, submission and/or contention is expressly set out herein and traversed.

11. The Respondents crave leave of this Hon'ble Tribunal to add to and/or amend this application if and when found necessary.

Reply drawn by :



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