

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

C.P. 21/99 in OA 939/93

C.P. 22/99 in OA 957/93

the 20th day of JANUARY 2000

CORAM: Hon'ble Shri B.N.Bahadur, Member(A)

Hon'ble Shri S.L.Jain, Member (J)

Dagadu Namdeo Patil

...Applicant in
OA 939/93

Vijay Kishan Gujar

...Applicant in
OA 957/93

By Advocate Shri S.S.Karkera

V/s

Union of India and others

...Respondents.

By Advocate Shri M.I.Sethna alongwith Shri Vadhavkar.

O R D E R

{Per Shri S.L.Jain, Member(J)}

The applicants in OA 957/93 and 939/93 have filed this application under Rule 4 of CAT (Contempt of Court) Rules 1986 for a declaration that the respondents had committed wilful and deliberate Contempt and be punished according to law.

2. In OA 957/93 and OA 939/93 which were decided by common order on 18th day of January 1999, the following order was passed.

" In the result of the above, both the OAs are partly allowed with the direction that:

the respondents shall consider the claim of the applicants for grant of temporary status in terms

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of the scheme is laid down in the letter dated 7.11.1989 in relaxation of the ban on engagements as per letter dated 17.12.1993 in case the applicant meet criteria of working days as laid down in the scheme.

The applicant shall also be considered for regularisation against group 'D' post as per terms.

The benefits which will accrue to the applicant on grant of temporary status shall be granted in case temporary status is allowed in relaxation of the rules.

The aforesaid action are to be taken within three months from the date of receipt of the order.

3. As stated above the benefit which provided to the applicant is " in relaxation of the ban on engagement as done as per the letter dated 17.12.1993" the rest of the conditions are to be complied with by the applicant.

4. The applicants have alleged that the respondents have taken no initiative action ~~of~~ whatsoever for honouring the judgement of the Tribunal, in spite of the fact that the order have been served on 21.1.1999 on the respondents. They further alleged that their

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exists 100 vacancies in Group D posts and the respondents failed to grant temporary status of regularisation of the service of the applicants within the prescribed period of three months.

5. The respondents denied that the said allegation and alleged that it is not true that 100 vacancies in group D posts exists. They further alleged that after receipt of the order of the Tribunal the same has been sent to the Director Sat Maintenance vide No.CAT/VKG & DNP/98-99 dated 27.1.1999 and in turn to DGM, Office of CGM Maintenance, WTR, Mumbai vide letter No. DSM-7/Court Cases dated 1.2.1999. Further AGM Legal, Office of CGM Maintenance, Mumbai sent this to Telecom Commission, New Delhi vide their letter No. CGMM/Court/CAT-MB1/A-957/93 and 939/93/98-99/42 dated 8.2.1999, as the matter can only be dealt by Telecom Commission. The respondents state that there is no wilful or deliberate dis-obedience on the part of the respondents. The respondents have carefully gone through the judgement and the Telecom Commission vide their letter No. 271-9/99-STN-II dated 19.4.1999 and has expressed their inability to take the applicant, which was conveyed to the applicant vide office letter No. M/W Thane/CAT/VKG/99-2000 dated 24.4.1999 and also to the counsel for the petitioner, Shri S.S.Karkera by registered post. It is further alleged that respondent No.2 is not a competent authority to either recruit or re-employ and he only implements the orders of Telecom Commission given through proper channel. The matter was examined and decided in accordance with law.

5. This Tribunal directed the respondents to re-consider the matter and a further affidavit has been filed by the respondents alleging that the department has once again re-considered the case of the applicant particularly in the light of the direction and points made in the order dated 15.1.1999 of the Tribunal. The department has not been able to take a decision to regularise the case of the applicant and therefore in the employment he was retrenched from his job, because he was engaged for a specific job and for specific period of gap of about six years in such a factor that defies all solutions in as much as, despite diligent search the department could not lay its hands on any statutory provision empowering the department to regularise the break for a period which is more than one year as there is ban on engaging casual labourer. Hence at present this offer cannot be made to the applicant. It is further requested that any solution which the Hon'ble Tribunal directs as a mandatory order will however will have to be complied by the Department.

6. If we peruse the scheme it is suffice to say that on 17.12.1993 the applicant must be in the job. As the service of the applicant were terminated vide order dated 8.10.93 and the same has been upheld by the Tribunal in the order dated 15.1.1999, the scheme vide letter dated 7.11.1989 and 17.12.1993 does not help the applicant in any way.

8. Regarding regularisation we do not find as fact that 100 posts do exit. Hence in our considered opinion no contempt is made out.

9. In the result C.P. stands dismissed and notices issued to respondents are dis-charged.

S.L. Jain
(S.L.Jain)
Member(J)

B.N. Bahadur
(B.N. Bahadur)
Member(A)

NS

del. 20/1/2000
Order/Judgement despatched
to Applicant/Respondent(s)
On 27/1/2000
[Signature]
27/1/2000