

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:1281/94

DATE OF DECISION: 29.11.2000

Shri Prakash Tukaram Tambat Applicant.

Shri D.V. Gangal Advocate for
Applicant.

Versus

The Union of India and others Respondents.

Shri S.S. Karkera for Shri P.M.Pradhan Advocate for
Respondents

CORAM

Hon'ble Shri B.S. Jai Parameshwar, Member(J)

Hon'ble Smt. Shanta Shastry, Member(A)

(1) To be referred to the Reporter or not? 1x

(2) Whether it needs to be circulated to other Benches of the Tribunal?

(3) Library.


(B.S. JAI PARAMESHWAR)
MEMBER(J)

29.11.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:1281/94

WEDNESDAY the 29th day of NOVEMBER 2000

CORAM: Hon'ble Shri B.S. Jai Parameshwar, Member (J)

Hon'ble Ms Shanta Shastry, Member (A)

Prakash Tukaram Tambat
220, Balaji Peth
Jalgaon.

...Applicant.

By Advocate Shri D.V. Gangal.

V/s

1. The Executive Engineer,
COXIAC Exchange Bldg,
City Tele Exchange compound,
N.D. Patel Road, Nashik.

2. The Superintending Engineer,
Telecom Civil Circle,
Nagpur.

3. The Chief General Manager
Telecom Maharashtra Circle,
Bombay.

...Respondents.

By Advocate Shri S.S. Karkera for Shri P.M.Pradhan.

ORDER(ORAL)

{Per Shri B.S. Jai Parameshwar, Member(J)}

The applicant herein was engaged as Casual Labour (Peon) in the respondents department with effect from 1.6.1993 to 30.6.1994. The applicant was dis-engaged from service from 1.7.1994. He made representation for re-engagement. As there was no reply from the respondents he has approached this Tribunal for certain reliefs.

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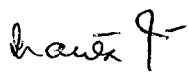
2. The facts and the reliefs claimed in this OA are similar to those reliefs claimed in OA 1270/94. The reasons stated by us in OA 1270/94 are squarely applicable to this case also.


3. Hence the following directions:

(a) The respondents shall consider the case of the applicant for re-engagement whenever there is work and there is need for engagement for casual labour, in preference to freshers from the open market.

(b) On such re-engagement the respondents shall consider the case of the applicant for grant of Temporary Status under the Scheme 1989 on account of his having worked between 1.6.1993 to 20.6.1994.

3. With the above directions the OA is allowed. No order as to costs.


(Ms. Shanta Shastry)
Member(A)


(B.S. Jai Parameshwar)
Member(J)
29.11.2000

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

CP.No.23, 20, 22/2002

Original Application Nos.1270, 1281, 1283/1994

SHRI D.K. LAMBOLE

SHRI P.T. TAMBAT

SHRI R.S. JADHAV

Applicant in OA.1270/94

Applicant in OA.1281/94

Applicant in OA.1283/94

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D/O TELECOM & 2 ORS.

Respondents.

Coram : Hon'ble Shri Justice B. Dikshit, Vice Chairman

Hon'ble Smt. Shanta Shastri, Member (A)

Tribunal's Order

Dated: 7.6.2002

These are three Contempt Petitions. C.P.No.23/2002 has been filed in OA-1270/1994, C.P.No.20/2002 in O.A.No.1281/1994 and C.P.No.22/2002 in OA-1283/1994.

The three applicants have approached this Court for punishing respondent no.1 to 3, for wilful disobedience of orders passed in above cases. Separate judgements have been given in above cases giving rise to above C.P. though the judgements being similar the grievance raised is also similar. The relevant facts have been given in judgement of O.A.No.1270/1994 while in other two cases judgement passed in OA No.1270/1994 has been followed. We take-up CP-23/2001 as leading case.

The operative part of order of OA, in respect of which wilful disobedience is alleged by applicant is as under:

(a) The respondents shall consider the case of the applicant for re-engagement whenever there is work and there is need to engage casual labourers in the department, in preference to others from the open market.

(b) On such re-engagement the respondents shall consider the case of the applicant for grant of temporary status and for regularisation under the scheme 1983 for the continuous work rendered by him during the period from 1/6/1993 to 20/5/1994.

(c) With the above directions the OA is allowed. No order as to costs.

The order was passed as applicant claimed themselves to be casual labourer and they were not re-engaged subsequently. In these CPs the applicants have claimed wilful dis-obedience of directions given in OAs.

The learned counsel for applicant has argued that though the judgement was delivered in November, 2000 and there are vacancies in the offices of respondents, yet respondents have advertised the vacancies for filling them up from open market without engaging applicants despite specific directions of this Tribunal.

We have heard Shri D.V.Gangal Counsel for applicant and Shri V.S.Masurkar counsel for respondents and have examined the contempt petitions. The respondents were directed in OAs to consider the case of applicants for re-engagement as casual labourers, whenever work is available and there is need to engage casual labourers, in preference to others from open market. It is at such time when engagement is to be made that respondents were directed to consider case of applicants for grant of temporary status and for regularisation under 1993 scheme. The applicant's case is that nothing has been done by the respondents for granting temporary status/ regularisation. According to them, certain casual labourers are already working whereas the applicants, who are senior to them, have not been re-engaged. He has also stated in the Contempt petition that he has already given names of casual labourers/contract basis employees who are working and have procured the place held by applicants which is in violation of rules. Their grievance is that still they have neither been considered nor they have been engaged. It is true that the applicants were not re-engaged when other casual labourers who were working were engaged but this fact was already before Tribunal when OA was decided and yet the orders were passed by this Tribunal which means that the Tribunal did not consider it necessary to undo whatever stands done.

The applicants have approached this Tribunal in Civil Contempt. We went through CP and ~~when~~ we neither find anything in the CP on the basis of which any charge for wilful disobedience could be framed nor proposed charges required to be filed under Administrative Tribunal (Contempts of Court) Rules, 1992 have been filed with CPs. The learned counsel for applicant in reply, contented that under CAT (Contempts of Court) Rules 1992 framing of proposed charges are not to be filed by applicant in case of Civil Contempt. He took us through the various rules and Form no.3 of the said rules and subsequently gave up his argument by conceding that charges are to be framed even in a case of Civil Contempt.

The Civil contempt arises only when there is wilful disobedience of an order. Beside that, we do not find any averment in the CP to make respondents liable for punishment as there is no breach of our order in question. Our direction in OA is that "whenever there is work and there is need to engage casual labourers in the department, in preference to others from the open market." There is nothing on the record that ~~applicants~~ ^{respondents} have made any appointment from open market after passing of said order. The applicants are to be considered for re-engagement as and when the work is there and casual labourers are to be engaged. As there is nothing on record that anyone from open market has been preferred over applicants or any engagement has been made from open market, we are unable to accept the contention of learned counsel for applicant that there is wilful disobedience of direction given in the order.

The learned counsel for applicant has also tried to make out case of wilful disobedience by arguing that despite there

being vacancies, the applicants have not been engaged. As it is not our order that vacancies are to be filled up, it in no way amounts to wilful disobedience of order for the purpose of making applicant liable for Civil Contempt. It could be when Respondents had work and they had engaged casual labourers from open market without preferring applicants that the question of considering wilful disobedience could arise. Thus, no case for wilful disobedience of orders being made out, the three CPs fail.

Before parting with the case, we feel that this is a fit case where heavy cost should be awarded. The reason is that the respondents have been dragged to this Court without any reasonable basis. The applicants have been ill advised in filing the CPs when none from the open market has been appointed. In aforesaid circumstances, we award cost of Rs.3000/- in each case. As there are three respondents, we direct that each Respondent will be paid Rs.1000/- in each case. The department will see that if costs are not realised or paid till the time applicants are re-engaged as casual labourers then whenever each of them is re-engaged, the said amount shall be deducted by the department from remuneration/wages payable to them and the same shall be paid by the Officer realising the costs in equal proportion to respondents of each case as per above direction.

For aforesaid reasons and subject to above directions, CP-23/2002 in OA 1270/1994, CP-20/2002 in OA 1281/1994 and CP-22/2002 in OA 1283/1994 are dismissed with costs, the cost in each case being Rs.3000/- payable to respondents.

CAT/MUM/JUDL/OA.1270,1281,1283/1994

Dated: 1

Copy to :-

1. Shri D.V.Gandhi, Counsel for Applicant.
2. Shri V.S.Masurkar, Counsel for Respondents.

Section Officer.