IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 285/94

Date of Decision: 23.6.99

Premnath Sawant & Ors. — Applicant.

— Advocate for Applicant.

Versus

Union of India & Ors. — Respondent(s)

Shri V.S.Masurkar. — Advocate for Respondent(s)

CORAM:

Hon'ble Shri. Justice K.M.Agarwal, Chairman,

Hon'ble Shri. R.K.Ahooja, Member(A)

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

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

(K.M.AGARWAL)
CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.285/94.

Wednesday, this the 23rd day of June, 1999.

Coram: Hon'ble Shri Justice K.M.Agarwal, Chairman,
Hon'ble Shri R.K.Ahooja, Member(A).

1. Premnath Sawant
2. Santosh Naik
3. Aleixo Coelho
4. Kum.Maura Mascarenhas
5. Kum. Nilima Sawant
6. Kum Mamata Dhume
7. Kum. Asha Chatrya
8. Kum. Caroline Gonsalves,
   C/o. Passport Office,
   Dayanand Smruti,
   Swami Vivekanand Road,
   Panaji,
   Goa. ...Applicant.

Vs.

1. Union of India through
   the Ministry of External Affairs,
   Government of India,
   New Delhi.
2. Passport Officer, Goa
   Dayanand Smruti,
   Swami Vivekanand Road,
   Gomantak Maratha Samaj,
   Panaji,
   Goa - 403 001.
3. Superintendent of Passport Office,
   Dayanand Smruti,
   Swami Vivekanand Rd,
   Gomantak Maratha Samaj,
   Panaji,
   Goa - 403 001.
4. Chief Passport Officer,
   (Ministry of External Affairs)
   Patiala House,
   Tilak Marg,
   New Delhi - 110 001. ...Respondents.

(By Advocate Shri V.S.Masurkar)

: ORDER :

(Per Shri Justice K.M.Agarwal, Chairman)

It is pointed out that on identical point O.A. No.304/93 in the case of Shashikant Ghadi and 19 Ors. Vs. Union of India wherein similar reliefs had been claimed was disposed of by Judgment dt. 11.6.93 with the following directions :

" Out of the 20 present applicants 1 to 3 are still in the employment while applicants No.4 to 20 have been terminated. We direct the respondents to consider the case of the applicants

...2.

for regularisation in appropriate posts in Group 'D' category and in accordance with the administrative instructions issued by the Department of Personnel and Training.

We also direct that a seniority list of the category Group 'D' workers in which the applicants are working shall be prepared within three months from today.

The services of the applicant Nos. 1 to 3 shall not be terminated until such seniority list is prepared and unless they are found to be junior to the persons already working.

The regularisation of applicant Nos.4 to 20 shall be considered on the basis of their seniority vis-a-vis other persons in employment.

This shall be done within a period of six months from to day. The application is disposed of with this direction."

Accordingly, it was submitted by the learned counsel for the respondents that this case may also be disposed of in terms of the aforesaid order. We accept the statement and accordingly dispose of this OA with the following directions :

(a) We direct the respondents to consider the case of the applicants for regularisation in appropriate posts in Group 'D' category and in accordance with the administrative instructions issued by the Department of Personnel and Training.

(b) We further direct that a seniority list of the category Group 'D' Workers in which the applicants are working shall be prepared within three months from to day.

(c) The regularisation of the applicants shall be considered on the basis of their seniority vis-a-vis other persons in employment.

(d) The respondents are directed to comply with the above directions within a period of six months from to day.

(e) The application is disposed of accordingly. No costs.

(R.K.AHOOJA)
MEMBER(A)

(K.M.AGARWAL)
CHAIRMAN

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT MUMBAI

Contempt Petition ~~Misc. Notice~~ No. 43 of 1999

(For Contempt of Court)

in

Original Appln. No. 285 of 1994

1. Premnath Sawant
2. Santosh Naik
3. Aleixo Goelho
4. Kum. Maura Mascarenhas
5. " Nilima Sawant
6. " Mamta Dhume
7. " Asha Chatrya
8. "Caroline Gonsalves

All C/o Passport Office, DayanandSmruti, Swami Vivekanand Road, Panaji, Goa ... Applicants

Versus

1. Union of India (Through the Ministry of External Affairs, Govt. of India, New Delhi)

2. Passport Officer, Goa

3. Superintendent of Passport Office,

Nos. 2 & 3 having their office at Dayanand Smruti, Swami Vivekanand Road, Panaji, Goa

4. Chief Passport Officer, Ministry of External Affairs, Govt. of India, New Delhi ... Respondents

And

S. D. Sawant, Passport Officer, Panaji, Goa ... Contemnor

I, Maura Mascarenhas, the 4th Applicant above-named residing at Panaji, Goa, do hereby swear and state as under:-

1. Myself and 7 others working in the Passport Office, S.V. Road, Panaji, Goa, filed the above application as early as in 1994, praying that the services of 8 applicants be not terminated, or given a break, or discontinue them from employment in any manner. A Misc. Application was made and on 9-12-94 an order was passed in favour of only Applicant No. 4, i.e. myself. In the meantime, applicant No. 3 left the job. Thereafter, on 12-12-94 another Misc. Application was made restraining the respondents from terminating the services of all the applicant Nos. 1 and 2 and 5, 6, 7 and 8.

2. On 28-12-94 the said Misc. Application No. 1324 of 1994 was disposed of with the direction that the services of the applicants should not be terminated, except of applicant No. 3, who had already left the job. The applicants crave leave to refer to and rely upon the said order dt. 28-12-94.

3. In 1998 the applicants made another application being Application No. 521 of 1998, praying that the respondents should not make any recruitment of new candidates to fill up the 7 posts of Lower Division Clerks (LDCs) in the Passport Office until further orders till the disposal of the O.A. whichever was earlier. The applicants crave leave to refer to and rely upon the said order dt. 14-9-98.

4. In spite of the same, by an order dated 7-4-99 the Contemnor herein terminated the services of applicant No. 1 and 8. When the order of termination was passed, they were on leave.

5. Our advocate gave a notice dated 12-4-99 addressed to the Contemnor stating that the termination of services of the said two applicants with effect from 7-4-99 is against the order of this Hon'ble Tribunal. It was stated that the Contemnor had committed contempt of court.

6. On 12-4-99 the Contemnor issued another office order, terminating my services, with effect from 13-4-99. It was stated that if my services will be required, I will be intimated accordingly.

7. Thereafter, the Contemnor wrote a letter dated 21-4-99, asking the first applicant as well as me to re-join the duties as casual workers on time-bound basis. When myself and the first applicant went to resume our duties as per the said call, we were told that we will be treated as fresh employees and our previous services will not be considered. Though we were working as LDCs, the Contemnor stated that we will have to work as sweepers, peons etc.

8. An application was thereafter on our behalf for Contempt of Court on 26-4-99. The Contemnor withdrew the termination orders. In the meantime, the main application came up for hearing on 23-6-99. This Hon'ble Tribunal passed an order dt. 23-6-99. The matter was disposed of as per the earlier order in O.A. No. 304 of 1993 (Shashikant Ghadi and 19 Ors. vs. Union of India). Certain directions were given. Accordingly the Tribunal disposed of the O.A; directions were given as more particularly mentioned in the said order. The respondents and the Contemnor were directed to consider the case of applicants for regularisation in appropriate posts in Group 'D' category, in accordance with the administrative instructions. Directions were also given that the seniority list of Category Group 'D' workers shall be prepared within three months from that date and that the regularisation of the applicants will be considered on the basis of their seniority vis-a-vis the other persons. The respondents were directed to comply with the said directions within six months. Hereto annexed and marked Exhibit "A" is a copy of the said order.

Ex. "A"

9. In spite of the same, the services of applicant Nos. 7 and 8 are terminated by an order dated 5-10-99. Hereto annexed and marked Exhibit "B" is a copy of the said termination order. Presently the applicant Nos.7 and 8 are on maternity leave.

Ex. "B"

10. The applicants say that the respondents and the Contemnor have committed contempt of court by terminating the services of respondent Nos. 7 and 8. From the conduct and from the events it can be seen that

the Contemnor is bent upon harassing the applicants for no reason. Instead of carrying out the directions of this Hon'ble Tribunal given by the order dt. 23-6-99, the Contemnor who is In-charge of Goa Office is harassing the applicants.

11. A serious view may, therefore, be taken and the respondents may be punished for the gross contempt by imposing a fine while the Contemnor be imprisoned for a period of six months or for such other period as this Hon'ble Tribunal may deem fit.

12. I say that under similar circumstances the Contemnor was held guilty by the Hon'ble High Court of Goa in the passport matter of one Bhalchandra Shirodkar and he was imposed a fine of Rs. 5,000/=. The attitude of the Contemnor is to defy the court orders. He repeatedly told us that the court has no business to interfere in administrative and service matters. According to him it is for the authorities to give employment or not. Indirectly he was suggesting that the orders passed by the Tribunal are wrong and he was not bound to comply with the said orders.

13. I say that the Contemnor has committed gross, deliberate and wilful contempt of court. He is, therefore, liable to be imprisoned and fined. He should also be ordered and directed to allow us to continue to work as LDCs and go on paying the salary.

14. I, therefore, pray:-

(a) That the respondents and the Contemnor herein be punished for the gross, deliberate and wilful contempt committed by them by terminating the services of Applicant Nos. 7 and 8 in spite of the order dt. 23-6-99 passed by this Hon'ble Tribunal:

i) by imposing a fine of Rs. 2,000/= each on the respondents and the Contemnor.

ii) by committing the Contemnor to civil prison for a period of six months or for such other period as this Hon'ble Tribunal may deem fit.

(b) That the respondents and the Contemnor be ordered and directed to allow the applicant Nos. 7 and 8 to resume their duties with continuity of service and to work as Lower Division Clerks (and not as peon, sweeper etc.)

(c) That pending the hearing and final disposal of the application, applicant Nos. 7 and 8 (who are presently on maternity leave) be ordered to be allowed to resume their duties at the Passport Office, Goa, Panaji, and pay the salary month to month.

(d) That ad-interim reliefs in terms of prayer (c) be granted.

(e) That the costs of the application be provided for.

(f) Such other and further reliefs be granted as this Hon'ble Tribunal may deem fit to grant.

Sworn at Mumbai,)
dated this ~~22nd~~ 25th day of Oct.)
1999.)

Applicant No. 4

Advocate for the Applicants