

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Contempt Petition No. 61 Of 1994

IN

Original Application No. 62 Of 1994.

Shri K. K. Cheema ... Applicant

Versus

Union Of India & Anr. ... Respondents.

CORAM :

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

Hon'ble Shri M. R. Kolhatkar, Member (A).

APPEARANCE :

1. Shri Suresh Kumar alongwith Mrs. N. V. Masurkar, Counsel for the applicant.
2. Shri M. S. Ramamurthy alongwith Shri N.K. Srinivasan, Counsel for the respondents.

Tribunal's Order :

Dated : 28.95

¶ Per.: Shri B. S. Hegde, Member (J) ¶

1. Heard the argument of Shri Suresh Kumar alongwith Mrs. N. V. Masurkar, Counsel for the applicant and Shri M. S. Ramamurthy alongwith Shri N.K. Srinivasan, Counsel for the respondents. The applicant has filed a contempt petition no. 61 of 1994 in O.A. No. 62 of 1994 praying that the respondents have not complied with the directions issued by the Tribunal dated 11.03.1994. In this connection, it is relevant to quote the order passed on 11.03.1994 which reads as follows :-

"Heard both the parties. Learned Counsel for the applicant submitted that the post is available and the applicant is a regularly selected candidate for the post. Learned Counsel for the respondents submits that the post has expired but we have not seen any letter or any documents showing that the post has expired. In view of the above, the following interim relief."

If the post is available and the applicant is a selected candidate he should be continued until the final disposal of the case."

Subsequently the respondents filed the written statement and thereafter this Tribunal passed the following order on 04.04.1994 :

"Heard Counsel for the parties. The matter is already admitted. Interim relief to continue till the final disposal of the case as directed by the order sheet dated 11.3.1994. The matter be kept on the sine-die list."

2. The main thrust of the argument on behalf of the applicant is, since the second order was passed by the Tribunal after filing the written statement by the department and since they have stated in the written statement that there was a vacancy existing, despite the fact, they did not adhere to the directions of the Tribunal and taken the applicant to the post of P.R.O. (Protocol), thereby committed contempt of the Tribunal's order. It is not disputed that the applicant alongwith other two vide Respondents Order dated 31.10.1990 have been posted as P.R.O. (Protocol) with the following conditions :-

"Based on the selection conducted under the above notification, candidates have been found suitable for filling up the direct recruitment quota of PROs for a time bound period of two years or till such time UPSC candidates are available, whichever is earlier."

It is specifically stated that they do not confer any right for absorption in Group 'B' post of PRO cadre. The respondents vide their reply in para (B) and (C) have clearly stated in what circumstances the applicant and others have been appointed. On receipt of Railway Board's letter dated 18.11.1991 stating that Group 'B' post of P.R. Department should be filled in by promotion from amongst Group 'C' staff of Public Relations Department in accordance with Recruitment Rules, the respondents took action in reverting the applicant on 21.07.1993, much before the filing of the O.A. The Learned Counsel for the applicant, Shri Suresh Kumar draws our attention to the recruitment rules wherein the promotion to the post of Public Relation Officer is by selection failing which by direct recruitment. Persons to be promoted to the post of Public Relations Officer is given at Column no. 8 of page 8 of the Recruitment Rules. There are eight categories but the applicant's cadre do not figure in. Moreover in its order dated 16.01.1995 the Tribunal observed that there is no documentary material to show that the post of P.R.O. was actually created when interim relief was passed on 11.03.1994 and confirmed on 04.04.1994 and was available thereafter. Nevertheless, he was not able to show any vacancy existed nor was he able to show that he has been selected regularly in accordance with the recruitment rules.

*BSA*

The respondents on the other hand contended that neither the post is available nor he is a regularly selected candidate for the post of Public Relation Officer. He is not eligible for promotion and who are eligible to be considered, is stated in the recruitment rules at column no. 11. Further, the order dated 31.10.1990 (annexure-9) makes it clear that he is not a duly selected candidate but only an adhoc appointee; secondly, he has not established whether any vacancy existed at the relevant time. Even in his affidavit dated 16.03.1995 filed in response to our order dated 16.01.1995 he has stated that the respondents have continued the post of P.R.O. [protocol] which was cancelled retrospectively after the receipt of the impugned order. However, on perusal of the records we find that the letter dated 07.03.1994 was cancelled on 10.03.1994 prior to the impugned order; therefore, the allegation regarding cancellation of the letter retrospectively is found to be incorrect.

3. In the light of the above, we find that the allegation by the applicant that the respondents have not adhered to the direction of the Tribunal is not found to be correct. Accordingly, the C.P. filed by the applicant is dismissed but no order as to cost.

*M.R. Kolhatkar*

(M. R. KOLHATKAR).  
MEMBER (A).

*B. S. Hegde*

(B. S. HEGDE).  
MEMBER (J).