

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: C.P. 12/99

Date of Decision: 6<sup>th</sup> Dec., 99

Shri S.S. Karkera Advocate for  
Applicant.

## Versus

Ministry of Agriculture & others Respondent(s)

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

**CORAM:**

Hon'ble Shri.

Hon'ble Shri.

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library

S. L. Smith

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

Contempt Petition No.12/99

In

Original Application No.347/95

On this the 6<sup>th</sup> day of Dec, 1999.

Coram : Hon'ble Shri D.S. Baweja, Member (A)

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

Shri Prakash Gajmal & Others .. Petitioners.

By Advocate Shri S.S. Karkera

vs.

1. Union of India,  
through the Secretary,  
Ministry of Agriculture,  
(Dept. of Animal Husbandry  
& Dairying), Govt. of India,  
Krishi Bhavan,  
New Delhi.

2. Shri Dr.J.N. Bora,  
Director, Central Poultry  
Breeding Farm,  
Aarey Colony, Mumbai-65  
At present working as  
Nutritionist, at Regional  
Feed Analytical Laboratory,  
Mumbai - 400 065

..(Org.Respondents)

(Resp.No.2, Real Contemner)

3. The Director,  
Central Poultry Breeding Farm,  
Aarey Milk Colony,  
Mumbai - 400 065.

By Advocate Shri V.S. Masurkar.

SC:SN

O R D E R

[ Per Shri S.L. Jain, Member (J) ]

This is an application filed by applicant No.10 under section 3 of Contempt of Courts Act 1971 for punishing respondent No.2 for wilful and deliberate disobedience of the order passed by this Tribunal dated 12.6.1995 in O.A.No.347/95.

2. On 12.6.1995 in O.A.347/95 the following order was passed by the Tribunal:-

".....no interim relief except that if the respondents wants to terminate the services, they shall give one months notice before enforcing the termination order".

3. The said order is absolute, operative and O.A.347/95 is still pending. The respondent No.2 vide order dated 1.5.1998 terminated the services of the applicants No.1,6,8 and 10.

4. The applicant No.1,6,8 and 10 alongwith other applicants total number being 16 filed an application which was registered as O.A.347/95 claiming the relief of regularisation of services as Casual Labour. alongwith consequential benefits. In the said O.A. the interim relief

(S.D.W) -

claimed was not to terminate the services of the applicants till the decision of the application which was not granted as prayed for but the interim relief granted was as per para 2 of the order. The services of the applicants No.1,6,8 and 10 were terminated as stated above and the applicants filed O.A. No.430/98 challenging the said termination order which is decided on 10.3.1999 upholding the order of the respondents. Thereafter on 5.4.1999 the applicants filed the present application seeking the relief of punishing the respondent No.2.

5. It is true that the respondent No.2 has passed the order of the termination dated 1.5.1998 when the order passed in O.A.347/95 was absolute and operative.

6. The defence of the respondent No.2 is that the reason for terminating the services of four applicants was for their act of criminal assault on the Head of the office while he was performing his duties on his chair for which a F.I.R. was lodged with the Police Station. The order of the Tribunal was for "Normal Conditions". The services of the casual labour can be terminated by giving a notice of one month in writing. The termination order says that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the said rates at which he was drawing them immediately before the termination of his services. This was done. It was not a

Sri. J.M.

wilful act because the applicants did not mention any reference to O.A.347/95. One month's pay was drawn and intimated to all the applicants but they have not turned up to receive their salary deliberately.

Q. During the course of arguments, the learned counsel for the respondents tried to bring by oral arguments that respondent No.2 was holding the double charge, burdened with heavy work. We do not appreciate and rely a fact which is not on record.

Q. The learned Counsel for the respondents relied on the Appendix A forms, Form 1 Para 7 which states about 'Matters not previously filed or pending with any other Court'. He argued that O.A.430/98 does not mention the pendency of O.A.347/95. It is a fact but this defect must be or may be a defence to O.A.430/98 and not to contempt application in O.A.347/95. As O.A.430/98 has already been decided, hence there is no propriety to consider the said defence and respondents are not entitled to take the said plea in contempt petition.

Q. The learned Counsel for the respondents tried to argue that the applicants did not bring to their notice the order of the Tribunal. In the first reply, no such ground was taken and the respondent No.2 cannot blame the applicant for it. The respondent No.2 who was looking the

DCW/

affairs of the office was and is supposed to be aware of the order of the Tribunal. He cannot be permitted to plead ignorance of the order.

10. Though, there is breach of the order but there were compelling circumstances, the circumstances which lead to termination order were found justified by order dated 10.3.1999 in O.A.430/98, the respondent No.2 has drawn the pay and intimated to the applicants to receive their salary and they failed to receive the same clearly makes out a case of not defying wilfully the law or the order passed by the Tribunal. It must have been better, before passing of the termination order, the respondents must have brought the changed circumstance before the Tribunal and seek the relief of vacation of the interim order dated 12.6.1995. This omission does not lead us to conclude that the respondent No.2 wilfully and deliberately disobeyed the order.

11. In the result, we do not find any merit in the contempt petition. The notice issued to respondent No.2 stands discharged.

( D.S. BAWEJA )  
MEMBER (A)

( S.L. JAIN )  
MEMBER (J).

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

M.P. No. 243/99 in O.A.No. 347/95.

Dated this Presented the 10th day of February, 2000.

CORAM : Hon'ble Shri D.S. Baweja, Member (A).

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

Smt. Cheliamma & 15 Others  
(By Advocate Shri S.S. Karkera)

... Petitioners  
(Original Applicants)

VERSUS

Union of India & Others ... Respondents.  
(By Advocate Shri V. S. Masurkar)

O R D E R

PER : Shri D. S. Baweja, Member (A).

Heard the arguments of Shri S. S. Karkera, the Learned Counsel for the applicants and Shri V.S. Masurkar, the Learned Counsel for the respondents on M.P. No. 243/99. The background leading to filing of M.P. No. 243/99 is as follows :

15 employees working as Casual Labourers under Central Poultry Breeding Farm, Aarey Milk Colony, Bombay, have filed an O.A. No. 347/95 seeking a relief of regularisation of their service in Group 'D'. Apprehending that their services are likely to be terminated, they had prayed for interim relief not to terminate their services. As per order dated 12.06.1995,

while admitting the O.A., it was provided that if the respondents want to terminate the services of the applicants, they shall be given one month's notice before the issuance of termination order. Subsequent to this, as per order dated 01.05.1998, the services of four of the applicants in O.A. No. 347/95, namely Mrs. Chelliamma (Applicant No. 1), Shri Satywal Konar (Applicant No. 6), Shri Bhagvandas Mourya (Applicant No. 8) and Shri Prakash Gajamal (Applicant No. 10) were terminated. These termination orders were challenged jointly through O.A. No. 430/98. This O.A. has been disposed of as per order dated 10.03.1999 upholding that the termination orders were not illegal requiring any interference by the Tribunal. In this O.A., the interim stay order was also granted on 26.05.1998 not to terminate the service of the applicants. Subsequent to this order, a Review Application No. 14/99 was filed, bringing out that termination order is bad in law, as it is contrary to the interim order passed on 12.06.1995 in O.A. 347/95 and, therefore, the review of the order dated 10.03.1999 was called for. This Review Application was rejected with the observations that if the applicants feel that the order of termination is bad in law in violation of interim order in O.A. No. 347/99, they may move the Tribunal in that O.A. and may pray for a suitable direction. As a consequent to this order, the M.P. under reference has been filed seeking the quashing of the termination orders dated 01.05.1998 passed in respect of applicant Nos. 1,

6, 8 and 10. It is also prayed that these applicants be deemed to be in service continuously from 01.05.1998 with grant of backwages till the date of reinstatement.

After filing of this M.P. on 30.03.1999, these four applicants also filed a contempt petition No. 12/99 on 05.04.1999. This contempt application has been dismissed as per order dated 06.12.1999.

2. With the above background, we have carefully gone through the averments made by the four applicants in M.P. No. 243/99 and the reliefs sought for. At the outset, we bring out the objections of the respondents that this application has been filed only by one of the four applicants. We find merit in the contention of the respondents and the M.P. is not maintainable on this ground. Even on merits, the M.P. does not survive after the contempt petition No. 12/99 filed on 05.04.1999 has been dismissed. All the issues raised in the M.P. have been already gone into the order dated 06.12.1999 in C.P. No. 12/99. The termination orders dated 01.05.1999 have been already held to be legal. Further, as observed in the order dated 06.12.1999, the respondents have terminated the services of the applicants by giving them one month's notice with the stipulation of payment of one month's pay in lieu thereon, as per the extant rules. The

only observation made in the order dated 06.12.1999 is that the respondents should have brought the matter to the notice of the Tribunal before passing the termination order in view of the interim order dated 12.06.1995. Once the contempt application for the same cause has been dismissed and the termination orders are found to be legally valid, the prayer of the applicants that the order passed in O.A. No. 430/98 should be set aside and applicants restored to service from 01.05.1998 does not survive.

3. In view of these observations, we are unable to find merit in the M.P. No. 243/99 and the same is dismissed accordingly.

*S. L. Jain*  
(S. L. JAIN)  
MEMBER (J)

*D. S. Bawali*  
(D. S. BAWALI)  
MEMBER (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 347 of 1995.

Dated this Wednesday, the 7th day of February, 2001.

Mrs. Chellamma & 15 Others, Applicants.

Shri S. S. Karkera, Advocate for the applicants.

VERSUS

Union of India & Others, Respondents.

Shri V. S. Masurkar, Advocate for Respondents.

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

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

(i) To be referred to the Reporter or not ? No  
(ii) Whether it needs to be circulated to other Benches of the Tribunal ? No  
(iii) Library. No

(B. N. BAHADUR).  
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 347 of 1995.

*Dated this Wednesday, the 7th day of February, 2001.*

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

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

1. Mrs. Chellamma.
2. Hablal Mishra.
3. Sudharshan Kunbi.
4. Prabhakar Gavai.
5. Narsingh Markande.
6. Satywal Konar.
7. Shayamal Yadav.
8. Bhagvandas Mourya.
9. Vishnu Balwant Kashid.
10. Prakash Gajama1.
11. Atamaram Jadhav.
12. Pandurang Kamble.
13. P. Kathirvel.
14. Vilash Mahadik.
15. Bharat Shinde
16. Jagdish Yadav

... Applicants.

(By Advocate Shri S. S. Karkera)

VERSUS

1. Union of India through  
The Secretary,  
Ministry of Agriculture,  
(Department of Animal Husbandry  
& Dairying), Govt. Of India,  
Krishi Bhavan, New Delhi.
2. The Director,  
Central Poultry Breeding Farm,  
Aarey Milk Colony,  
Bombay - 400 065.

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*B.S.*

3. The Superintendent,  
Random Performance Testing Centre,  
Aarey Milk Colony,  
Bombay - 400 065.

4. The Superintendent,  
Regional Field Analysis Laboratories,  
Aarey Milk, Colony,  
Bombay - 400 065. ... Respondents.

(By Advocate Shri V. S. Masurkar)

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

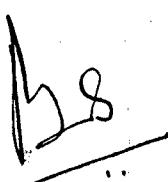
This is an application made by 16 Applicants, as noted above, seeking the relief from this Tribunal as follows :

"(i) The Hon'ble Tribunal be pleased to direct the Respondent No. 2 to regularise the services of the applicants from the date of their completion of 240 days in the service.

(ii) The Hon'ble Tribunal be pleased to direct the Respondent to prepare a scheme for regularisation of the services of the applicants with a view of bringing them on par with the Group 'D' employees with all the normal benefits such as Dearness Allowance, House Rent Allowance, Government Provident Fund and other reliefs including the arrears of pay, if any, on such terms and conditions by this Hon'ble Tribunal deem fit and proper under the circumstances of the case.

(iii) Any other relief or order as may be necessary in the above case and Hon'ble Tribunal deems fit and proper in the interest of justice."

In short, the prayer is for the regularisation of the services of the Applicants as Group 'D' employees. The reply by the Respondents was filed fairly soon. However, we have heard the Learned Counsel on both sides today, Shri S. S. Karkera for the Applicants and Shri V. S. Masurkar for the Respondents and the updated position has now been provided to us by both sides today in open court. The updated position is as in the paragraphs ahead.



2. The Applicants at Sl. Nos. 1, 6, 8 and 10 had been terminated and have gone up in a Writ Petition against the orders in this regard made by this Tribunal. Hence, they cannot remain as Applicants herein and their names are hereby deleted from this O.A.

3. Applicant No. 7 has unfortunately expired and we are informed that he expired as early as 12.06.1996. His claim also does not survive.

4. We are further informed that Applicants at Sl. Nos. 2, 3, 4, 5 and 9 have meanwhile been regularised in various Group 'D' assignments. This is also an admitted position by Counsel for Applicants.

5. The Application now, therefore, survives for consideration only in respect of Applicants at Sl. Nos. 11 to 16.

6. Learned Counsel, Shri V. S. Masurkar, informs us that just as the cases of other eligible Applicants have been considered, the cases of these Applicants are also being considered, but subject to vacancies, and hence this will be possible only as and when vacancies are available. There can be no grievance on this point by the Applicants, since no particular date could be given in a matter regarding regularisation. The claim in the Application, therefore, does not survive and noting the above commitment indicated by Respondents, we hereby dispose of this O.A. There will be no orders as to costs.

S.L. JAIN  
(S.L. JAIN)  
M(J).

B.N. BAHADUR  
(B.N. BAHADUR)  
M(A).

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH AT MUMBAI

CONTEMPT PETITION No.12 of 1999

In

Original Application No.347 of 1995

Smt.CHELIAMMA &  
15 Others .... Applicants

VERSUS

1. The Secretary  
Ministry of Agriculture )  
 )
2. Dr.J.N.Bora, Director,CPBF,  
Aarey Milk Colony, Mumbai )  
at present working as )  
Nutritionist at )  
Regional Feed )  
Analytical Laboratory, ) Respondents  
Mumbai:400065. )  
 )  
and )  
 )
3. DIRECTOR )  
Central Poultry Breeding Farm, )  
Aarey, Milk Colony, )  
Mumbai:400065. )

WRITTEN REPLY ON BEHALF OF THE Respondent NO.1 & 3.

in respect of CONTEMPT PETITION NO.12/99

I, Dr.Majdood Ahmad, DIRECTOR, having my office at  
CENTRAL POULTRY BREEDING FARM, (GOVT. OF INDIA), AAREY  
MILK COLONY, MUMBAI:400065 do hereby state on solemn  
affirmation as under.

1. I say that I have been authorised to file  
this reply on behalf of the Respondent  
No.1 & 3.
2. I say that I am acquainted with the facts and  
circumstances of the case, in my official  
capacity.

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3. I say that I have gone through the contents/averments/allegations made in the Original Application and reply is as under:-

2. With reference to para 1 to 3 of Contempt Petition the Respondents No.1 & 3 says that the contentions are substantially correct.

3. With reference to para 4 of Contempt Petition the Respondents No.1 & 3 says that the contents are not correct. The O. A. No.347/95 is filed by 15 applicants on 20.2.95 and the same was admitted on 12.6.95. The reason for terminating services of 4 said employees w.e.f. 1.5.1998 was for their act of criminal assault on the Head of Office, while he was performing his duties on his chair. The orders passed by the Honourable CAT dated 12.6.1995 on O.A.No.347/95 was pertaining to regularisation of services of the applicants with a view of bringing them on par with the group D employees. The Interim Relief given by Honourable CAT was for NORMAL CONDITIONS "if the respondents wants to terminate the services they shall give one month's notice before enforcing the termination order". The para 4 of No.48-5/94-LD.II/Admn.III dated 22.12.1994 from Department of A.H. regarding Grant of temporary status to Casual Workers under the scheme "Casual Labourers (Grant of temporary Status and regularisation) Scheme of Govt. of India 1993" is relevant and hence the said letter dated 22.12.94 is annexed as Ex.R-1.

"Despite conferment of temporary status, the services of a casual labourers may be dispensed with by giving a notice of one month in writing. A Casual Labourer with temporary status can also quit services by giving a

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written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work. The termination orders of above 4 applicants says "termination forthwith the services of" and also that "he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the said rates at which he was drawing them immediately before the termination of his services". The second clause was put up by the respondent to honour the Honourable CATs Interim Relief to the applicants on O.A.No.347/95.

4. With reference to paras 5 to 6 of Contempt Petition, the Respondent No.1 & 3 says that the averment looks to be a lame excuse for covering a delay of tracing a leading Advocate procuring copies of judgement for a period of 1.5.1998 to the date of disposal of the case No.430/98 on 18.3.1999. Rather it may be a case of ignorance of applicants and their learned Counsel as regards to the Interim Relief given by the honourable CAT for O.A.347/95 ON 19.6.1995. The copy of said CAT Interim Relief could also be sought from H'ble CAT, Mumbai Bench in a single day. Sudden recollecting it and including it as a basis for filling a Miscellaneous Petition to linger on a detailed heard O.A.No.430 of 1998 which was rejected by Honourable CAT, Mumbai on 18.3.1999 may be just a waste of the valuable time of Honourable CAT.

Thus the Contempt Petition deserves a outright rejection.

5. With reference to para 7 of Contempt Petition, the Respondent No.1 & 3 says that the orders passed by the respondents for terminating services of 4 regular

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casuals who collectively made criminal assault on the Director while he was performing duty in his chamber was the only punishment which could be given to such workers for a criminal assault. FIR was also lodged to local Police Station by Dr.J.N. Bora on the day of incident (copy enclosed at R-2). They warned the above workers for maintaining peace in the campus. The Interim Relief to all Regular casual under O.A.No.347/95 was for NORMAL CONDITION only.

6. With reference to para 8 of Contempt Petition, the Respondent No.1 & 3 says that the reply should come from Respondent No.2 as it pertains to him.

7. With reference to para 9 of Contempt Petition, the Respondent No.1 & 3 says that CONTEMPT PETITION deserves to be rejected by the Honourable CAT on the grounds explained above.

#### VERIFICATION

I, Dr.MAJDOOD AHMAD, DIRECTOR, having my office at CENTRAL POULTRY BREEDING FARM, (GOVT. OF INDIA), AAREY MILK COLONY, MUMBAI:400065 do hereby state on solemn affirmation that whatever, is stated in reply to the Contempt Petition is true to my personal knowledge and belief as revealed from the perusal of the official record on the subject and also state that no material aspects has been suppressed.

PLACE : MUMBAI.

DATE: 24/07/99

for RESPONDENTS.

H. A. T. E. H. G.

विदेशल, DIRECTOR

(VINAY S. MASURKAR)

Addl. Cent. Govt. Sr. Standing Counsel

for the RESPONDENTS.

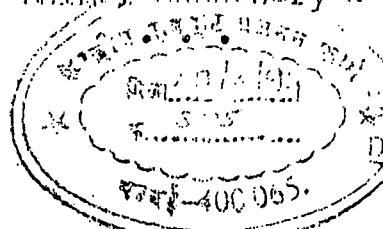
केन्द्रीय कुकुट प्रजनन फार्म,  
CENTRAL POULTRY BREEDING FARM,

(वास्त सरकार), (GOVERNMENT OF INDIA),

आरे दुग्ध बसाहत, AAREY MILK COLONY,  
मुंबई - MUMBAI - 400 065.

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No. 48-5/94-L.D.-II  
Government of India  
Ministry of Agriculture  
(Dept. of Animal Husbandry & Dairy) (18)



Ministry of Agriculture  
Government of India  
New Delhi  
Dated the 10th March 1994.

To

All the subordinate offices under the  
Department of Animal Husbandry & Dairy.

Subject:- Implementation of Scheme for Grant of Temporary Status  
and Regularisation of Casual Workers - Reg.

• • •  
Sir,

I am directed to say that this Department is considering the question of granting Temporary Status to the existing Casual Labourers working in the Subordinate Offices of Animal Husbandry Division in terms of Department of Personnel and Training OM No. 51016/2/90-Estt.(C) dated 10th September, 1993 (copy enclosed) for ready reference under the scheme "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993." To enable this Department to consider the grant of Temporary Status, it is requested to furnish the requisite information in respect of existing casual workers to this Department by 1st April, 1994 positively in the prescribed proforma enclosed. If no information is received from any office by the stipulated date the responsibility will lie on the Head of Office/Head of Department of the concerned office.

2. This may please be treated as MOST IMMEDIATE.

Yours faithfully,

(N. Kandu T.P.)

Under Secretary to the Govt. of India

Encl.: As stated above.