

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

C.P.Nos.112/2001 & 113/2001
in
O.A.Nos.262/98 & 257/98

Dated this Monday the 8th Day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Shri B.N. Bahadur, Member (Administrative).

M.H. Mulla & 18 Ors.

..Applicants in
O.A.262/98

G.M. Ganpat & 17 Ors.

..Applicants in
O.A.257/98

(By Advocate Shri R.Ramamurthy)

Versus

Shri R.N. Dwivedi,
Divisional Rail Manager (Works),
Central Railway,
CST Mumbai.

.. Contemner in
OA Nos.262/98
and OA.257/98

(By Advocate Shri S.C. Dhawan)

Order on Contempt Petitions (Oral)
{ Per : B.N. Bahadur, Member (A) }

The applicants in O.A.262/98 and O.A.257/98 have come up in both these Contempt Petitions alleging that the orders made in O.A.262/98 and O.A.257/98 (common order) by this Tribunal on 31.1.2000 have not been implemented. Notice was issued to the alleged contemner who has filed written statement in reply dated 6.3.2002. We are examining whether there is any wilful disobedience of the order on the part of the alleged Contemnors.

2. Let us first go to the order in the aforesaid

....2...

O.A.Nos.262/98 and 257/98. It was disposed of as partly allowed to the extent that the order dated 15.4.1997 has been quashed and set aside and the respondents are ordered to conduct an enquiry in accordance with Para 21 of the order and arriving at a finding after observing the principles of natural justice. In Para 21 it is stated as under:-

"21. The service particulars of the applicants prior to 1990 are to be ascertained by the respondents after following the principles of natural justice. The said service particulars if not found true, then to secure the job on the basis of the said particulars and working thereafter in the year 1990 and 1991 shall be of no consequence as the fraud was committed at the earlier stage. If the situation is otherwise, the applicants continue in 1990 and 1991 in accordance with rules, the said finding be the result of an enquiry which is to be held as stated above. Then their working in 1990-91 deserves a consideration."

3. In the reply filed by the alleged contemners it is stated that though there is a delay in the implementation of the order, but there is no intention to wilfully or deliberately disobey the order. It is then stated by the deponent Shri R.N. Dwivedi, Sr. Divisional Engineer (CO), DRM Works Office, Central Railway that he had constituted a Committee consisting of three officers to enquire into the case and to submit a report. It is also stated that the said Committee issued notices to the applicants for a personal hearing, and that after such personal hearing, applicants were also

asked about the particulars of depots and officers under whom they are worked. It is specifically stated that this was done in order to comply with the principles of natural justice, and to give an opportunity to the applicants to prove the correctness of the entries in the card. The applicants have signed the said statements recorded at the hearing, but have failed to give any proof or cogent answers to show working prior to 1990. Accordingly, orders have been made by the (original) respondents dated 19.3.2001, a copy of which is at Annexure A-2.

4. Learned Counsel for the original applicants in O.A. Shri Ramesh Ramamurthy assisted us in the matter. Also we have considered the arguments made by Shri S.C. Dhawan, who represents the alleged contemners. We are convinced that no case has been made out before us to establish wilful disobedience on the part of the respondents. An order was made to give opportunity, and after providing such opportunity the order dated 19.3.2001 has been made. We do not feel that this is a fit case to for proceeding with contempt proceedings. Accordingly, the contempt proceedings are hereby dropped and the contempt petition is rejected. Notices are discharged.

CAT/MUM/JUDL/OA.262/98 and 257/98

Dated:

Copy to :-

1. Shri R.Ramamurthy, Counsel for Applicant.
2. Shri S.C.Dhawan, Counsel for Respondents.

Dtd: 9.6.2002

Section Officer.

Order/.....
to Applicant/Respondent (s)
on 2.5.2002

V/S
MS