

C.P.No.28/92 in
O.A.NO.998/91.

Date of Order: 24.7.1992

A. Rajeswari Devi .. Petitioner

Vs.

1. Sri Mitra, IAS, Secretary to Govt. of India, Min. of Home Affairs, Govt. of India, ^{Department of Personnel & HR} New Delhi.
2. Sri R.P.Singh, Director of Census Operations, Min. of Home Affairs, Govt. of India, Hyderabad.
3. Shri Nanda, Registrar General and Census Commissioner of India, New Delhi.
4. Sri Sombulingam, Regional Deputy Director of Census Operations, Formers Region-I, Gaddiannaram, at present at Koti Region-II, Hyderabad.
5. Sri K.S.Sarma, Asst. Director, Census Operations, Somajiguda, Hyderabad. .. Respondents

For the Petitioner : Sri M.V.S.D.Prasada Rao, Advocate

For the Respondents : Sri N.V.Ramana, Addl. CGSC
Sri D.Panduranga Reddy, S.C. for AP

CORAM:

THE HON'BLE SRI R. BALASUBRAMANIAN, MEMBER (ADMN.)

THE HON'BLE SRI C.J.ROY, MEMBER (JUDL.)

.....

X ORDER OF THE BENCH AS PER HON'BLE SRI C.J. ROY, MEMBER (J) X

This contempt petition is filed by the petitioner herein against the respondents for punishing them under the Contempt of Court Act, 1971 alleging that they have flouted the directions given in O.A.No.998/91 dt. 25-2-1992.

2. The above O.A. was filed stating that the applicant was working in Census Operations Department under a contract on consolidated pay continuously for six months and that she was not regularised on the plea of reduction of establishment; the applicant was retrenched. The prayer in the said O.A. was to regularise her services in the cadre held by her or in the alternative to absorb her in State service without retrenching her.

3. The O.A. was disposed-of by an order dt. 25-2-1992 by the Tribunal with the following direction:-

" We direct the respondents to continue the ~~respondent~~ applicant in the same post in which she is presently working on the same terms and conditions as before, provided there is work for her beyond 29.2.1992. The application is disposed of accordingly at the admission stage itself with no order as to costs."

This contempt petition is filed alleging that in pursuance of the orders of this Tribunal, the respondents retained the petitioner at Gaddiannaram for some time while transferring her juniors to other regional offices in the twin cities, and that the petitioner herein was asked not to attend the office ~~on~~ from 15-5-1992 on the plea that the Regional office at Gaddiannaram has been shifted to Koti office. It is also alleged that the persons who were juniors to the applicant were transferred from Gaddiannaram regional office in order to ~~to~~ give a death blow to the applicant and others who had approached the court of law for redressal of grievances and to continue their kith and kin on extraneous considerations. It appears that the petitioner and others have also given written representation and also a telegram was issued by their counsel to the respondents. The petitioner also alleged that the action of the respondents is to thwart justice and interference with its orderly administration and that they are liable to be punished

4. We heard Sri MVSD Prasada Rao, learned counsel for applicant and Sri V.Rajeswara Rao for Sri N.V.Ramana, Addl. Standing Counsel for the Central Government and perused the records carefully.

5. The short question involved is whether the respondents committed any wilful disobedience as alleged by the petitioner herein. On 25-6-92, the respondents were directed to produce the records, and accordingly all the records are produced before us at the time of arguments by the learned counsel for respondents. Having gone through the records carefully and heard rival sides, we felt that this contempt petition could be disposed-of at the admission stage itself.

6. The head-office of the respondent is at Somajiguda, and its branches/regional offices are at Koti, Gaddiannaram and Moulali and that the office at Moulali is working since March, 1991. It is pertinent to mention here that the direction in the O.A. was "provided there is work for her beyond 29.2.92". However, in pursuance of the Judgment in the main O.A. the applicant was put in service again from 3-3-92 to 15-5-92. An agreement was also executed by the petitioner wherein it is stated that the appointment is provisional, on adhoc basis to be terminated in the contractual period. It is also contended that the Respondents called for the employees working in Gaddiannaram region to exercise their option to work at Moulali office and also to give their willingness and the persons who opted to work in Moulali office were transferred there. But the persons who have not opted including the petitioner herein and some others ^{who} have not opted ^{for Moulali, had} given letter, stating that they will work at Gaddiannaram region. Thereafter, the office at Gaddiannaram ^{was} wound up and the ^{people} persons who opted to work in other regional office were

transferred to Moulali Office. It is also stated that a letter was sent ^{by Registered Post} to the persons who have not opted to work in regional offices ~~under a registered post~~, but all the said letters were returned unserved.

7. We have examined the records produced before us in this regard and opened and seen contents of one returned cover also. The records show that in all 149 persons were terminated from service with effect from 15-5-92. All the persons signed except the applicant herein and 8 others, who are ~~all~~ petitioners in other connected cases. However, ~~these~~ people who opted to go to Moulali were shifted there, but who have not opted so were terminated. We have also seen the telegram issued by the counsel for the petitioner which reads as under :-

"Telegram Dt.12-5-92.

Please refer orders dt.25-2-92 of CAT.
Kindly direct Census Operations, Hyderabad continue the applicants covered court orders OA 998, 1059 to 1065 of 1991 -
Regional Dy. Director Sri Sambulingam floated orders on service further threatening discontinue showing break in service Further threatening discontinue the applicants fifteenth unauthorisedly keeping posts vacant pray immediate intervention Directions otherwise contempt proceedings follow....

MVSD Prasada Rao
Advocate.

The said telegram indicates that the petitioner has some knowledge of the contents of the registered letter. A copy of the telegram elaborating and confirming the telegram is also seen, which reads as follows :-

M
"The orders of the Hon'ble Central
Administrative Tribunal Hyderabad

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in OA 998/91 and 1059 to 1065/91 were flouted by the Regional Dy. Director Census Operations (Sri Sambulingam) by terminating the applicants on 29-2-92 inspite of communication of orders and Telegram of Advocate on record. Again Sri Sambulingam is threatening the applicants that he would terminate the applicants on 15-5-92 though there are sufficient posts in twin cities Sri R.P.Singh Director, Sri K.S.Sarma Asst.Director Census Somajiguda are not evincing any interest on extraneous grounds by allowing Sri Sambulingam to Act according to his whims and fancies, virtually disregarding orders of the Hon'ble Tribunal. In case the applicants are not continued in the existing posts without giving any break of service. The contempt proceedings follow by Monday eighteenth Implicating all the respondents since the subordinate authority can not proceed independently without obtaining the higher authority orders flouting the mandate of the Hon'ble Central Administrative Tribunal at Hyderabad by an order dt.25-2-92. In the circumstances if the applicants are not continued without break in service in the existing vacancies even in coding cell which posts to the extent of 200 in existence. By intimating the Advocate on record by 16-5-92 the contempt petition will be filed on 18-5-92 positively against all the Respondents as all are vicariously responsible in flouting the orders which is nothing but harassing the applicants who served the department for a considerable period of 3½ years from 1981 to 1984 and now acting since 1991 by continuing the retirees as well as the kith and kin of the authorities in the twin cities a line of response will be highly

appreciate by 16-5-92 to avoid contempt proceedings.

MVSD Prasada Rao"

It is also pertinent to mention that one Sri K.K.Sarma, who is not a party in the Original Application has now been made as Respondent No.5 in the Contempt Petition. When questioned the learned counsel for the applicant states that the said Sri K.K.Sarma and Sri Sambulingam are responsible for flouting the orders of the Tribunal. In view of our decision in this case we are not inclined to go into this question.

8. We are not impressed with the arguments that the petitioner was removed from service and others were transferred to Moulali, which does not necessarily mean that the respondents are flouting the orders of the Tribunal. For this as per the Act we have to look into the policy decision taken by the Respondents, which is produced before us by the Respondents that they want to close the Gaddiannaram region independent of court orders. The policy decision of the Respondents cannot be interfered with by this Tribunal as observed by the Hon'ble Supreme Court in JT 1992 (3) SC 309 (Union of India and others Vs. Syed Mohammed Raza Kazmi & others), wherein it was held as follows:-

"The policy decision is not arbitrary or meaningless. It has a background and it has a purpose. It is for the department to decide on policies of promotion which will be consistent with the interests of all employees belonging to various cadres. It is not for the Administrative Tribunal or for the Courts to interfere with this and to dictate the avenues of promotion which the department should provide for its various employees.."

We have cited the above observation because policy decision

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of the Respondents to wind-up the Gaddiannaram Region, which is purely their own and cannot be interfered with by this Tribunal. The above observation is cited only for the analogy that the Tribunal or Courts should not interfere in the policy matters of the State. Had the petitioners opted to go for work at Moulali what steps would have been taken by the Respondents is a hypothetical question which we are not now adverting to. We also observed in the file correspondence ~~about~~ staff position between office and arrangements to wind-up the Regional office at Gaddiannaram i.e. Region No.1 Hyderabad.

9. In view of the said circumstances, since the Respondents have taken policy decision to wind-up the Gaddiannaram Region, they have taken steps to offer appointment at Moulali Region and obtained the signatures, on the contact forms, which contain inter alia the same terms and conditions which the petitioners had signed prior to the termination. The petitioner ~~are all~~ educated persons and it cannot be said that ~~they have~~ ^{she has} signed without knowing the terms and conditions. Even if they so allege, it cannot be stomached because the Original contact order, in which the petitioners ~~were~~ appointed and terminated which resulted in the O.A. are in the same terms and conditions as observed by us.

10. We fail to see any dis-obedience on the part of the Respondents. In all 149 persons were terminated on 15-5-92 and out of them 9 persons ^{like} ~~like~~ the petitioner herein and in other CPs were addressed by the registered letters, which were returned undelivered. It can be seen that the exercise of options about 50 persons to go to Moulali and adjusting them at Moulali was done by way of an oral offer of the Respondents. Ultimately the petitioner

④ Department of personnel & AR,

Copy to:-

1. Sri. Mitra, IAS, Secretary to Govt., of India, Ministry of Home Affairs, Govt., of India, New Delhi.
2. Sri. R.P.Singh, Director of Census Operations, Ministry of Home Affairs, Govt., of India, Hyderabad.
3. Shri. Nanda, Registrar General and Census Commissioner of India, New Delhi.
4. Sri. Sombulingam, Regional Deputy Director of Census Operations, Former Region-I, Gaddiannaram, at present at Koti Region-II, Hyderabad.
5. Sri. K.S.Sarma, Assistant Director, Census Operations, Somajiguda Hyderabad.
6. One copy M.V.S.D.Prasada Rao, advocate, CAT, Hyd.
7. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
8. One copy to Sri. D.Panduranga Reddy, Spl. counsel for A.P. State.
9. Copy to All Benches and Reporters as per standard list of CAT, Hyderabad Bench.
10. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
11. One copy to Deputy Registrar(Judl.), CAT, Hyd.
12. One spare copy.

Rsm/-

7/2/1990
25/1/90
25/1/90

: 8 :

and others were terminated. Had the Moulali office has been newly opened and the petitioner is terminated and others were sent then it could mean there is a discrimination. Here it is not the case. But Moulali Office was in existence since March, 1991.

11. The termination notice prepared in 3 or 4 sheets was signed by all those who have been terminated except this petitioner. Then only the registered letters were sent to them, which were also returned undelivered. It is repeated here inspite of already mentioning, to emphasize the fact that at no point of time the Respondents have deliberately or willfully disobeyed the orders of the Tribunal.

12. The Tribunal's direction i.e. "provided there is work for her beyond 29-2-92" is not flouted by the Respondents because in summing-up it could be gathered that the Respondents appointed the applicant after the judgement. Being an educated person she has signed knowing the terms and conditions of the contract, which was the previous format and the policy decisions, which brook no interference from us to wind-up the Gaddiannaram regional office of the Respondents and there offer to employees asking for options to go to Moulali, which is in existence since March, 1991; petitioner not option to go to Moulali but willing to work at Gaddiannaram Regional Office, ^{are all} the circumstances that lead us not to be tempted to hold that there is a contempt. Hence no case is made out. Contempt Petition dismissed with no order as to costs.

R.Balasubramanian

(R.Balasubramanian)
Member(A)

W.Ray
(C.J.Ray)
Member(J)

av1/sd

Date: 25th July, 1992.

25/7/92
Avasthi (34)
Contd.-9

29/7/91 C.P. 28792
-en-

O.A. 998791

TYPED BY

COMPARED BY

CHECKED BY (9)

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.
THE HON'BLE MR.

AND

Imping

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 24/7/1992

ORDER / JUDGMENT

P.T.A./C.A./M.A. No. 28792 ✓

in
O.A. No. 998791 ✓

T.A. No.

(W.P. No. _____)

Admitted and interim directions issued

Allowed

Disposed of with directions

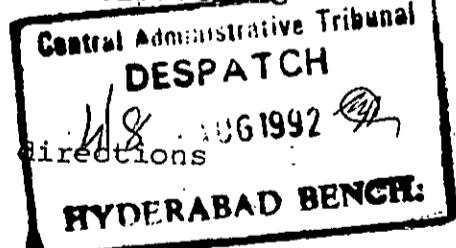
Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.



pvm.

Seal to despatch seal
with (3) Thirty four Cost for each Party
of this C.P.

31/7/91