

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. C.P.3/98.
T.A. No.

199

DATE OF DECISION _____

Narendra Kumar Sharma,

Petitioner

-in person-

Advocate for the Petitioner (s)

Versus

Mr. M.S.Ahuvalia and 4 others.

Respondent

Mr. Sanjay Pareek

Advocate for the Respondent (s)

CORAM : The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.
The Hon'ble Mr. A.P.Nagrath, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(A.P.Nagrath)
Administrative Member.

(G.L.Gupta)
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR

C.P.No.3/98

Date of the decision. 24.01.03

Narendra Kumar Sharma,
S/o Shri H.N.Sharma,
R/o Plot No. 2026,Pitlion Ka Chowk
Johri Bazar, JAIPUR.

:Applicant in person

-versus-

1. Shri M.S. Ahluvalia,
Finance Secretary
Government of India,
Ministry of Finance,
Vitta Bhawan, New Delhi.

2. Shri T.S.Rajan,
Director of Canteen,
Government of India,
M/o Public Grievances,
Department of Personnel and Administrative Reforms.
New Delhi.

3/ Shri D.N. Prasad,
Accountant General (A&E)
Rajasthan, JAIPUR.

4. Smt.Sushma B. Dabak.
Principal, Regional Training
Institute, Bajaj Nagar,
Jaipur.

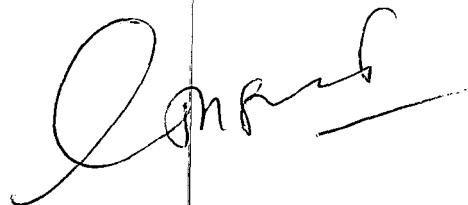
5. Smt. Gajala Minai,Sr. Dy.
Accountant General,(Administration)
and Chairman of A.G.Departmental Canteen,
O/o Accountant General(A&E)
Rajasthan, JAIPUR.

: Respondents.

rep. by Mr. Sanjay Pareek: Counsel for the respondents.

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CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

The Hon'ble Mr. A.P.Nagrath, Administrative Member.



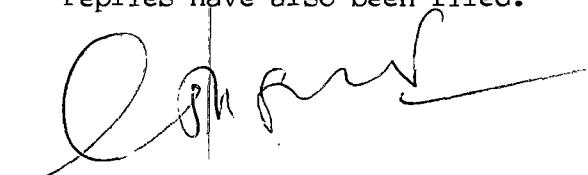
ORDER

Per Mr. Justice G.L.Gupta:

The case for the applicant in this Contempt Petition is that the respondents have not implemented the order dated 3.2.97 passed O.A No. 334/87 despite the representation of the applicant Annex. A.2.

2. It is averred that Shri P.K.Savita has been engaged by the respondents. It is further stated that the respondents have given appointment to one Ajeet Singh as Group 'D' employee despite the fact that the applicant was having a claim of appointment under the order of this Tribunal. It is stated that ignoring the claim of the applicant the respondents are taking steps to make appointments in group 'D' posts and some of them belong to the State of Bihar and close to the officers.

3. In the reply the respondents have come out with the case that the applicant had been appointed on casual basis to meet purely local requirements for looking after the canteen work in the Institute. He was disengaged with effect from 24.7.87 as his services were no longer required. It is further stated that Shri P.K.Savita was engaged on temporary basis on daily wages as Cook as and when required by the Regional Training Institute and now he has been appointed afresh by the office of the Accountant General (Audit-I), Rajasthan, a separate unit on regular basis in the post of Group 'D' as per the Recruitment Rules. It is stated that there is ban on recruitment in the departmental canteens vide OM dated 30.1.92 and there is no vacancy available in the canteen and therefore no recruitment can be made. It is stated that Ajeet Singh has been appointed as Group 'D' Chowkidar by a separate unit of A.G.(Audit-I), Rajasthan, and this did not amount to disobedience of the order of the Court dated 3.2.97. In nut shell the case for the respondents is that there is no vacancy in the cadre of Tea/Coffee maker and therefore the applicant cannot be appointed. Additional replies have also been filed.



4. We have heard the applicant and the learned counsel for the respondents.

5. In the order dated 3.2.97, it was not mandate by the court that the applicant was necessarily to be re-engaged as a Tea/Coffe maker. It was stated in the order that his case should be considered for re-engagement, if Shri P.K.Savita, who was junior to the applicant, had been reinstated/re-engaged. It was further stated that the re-engagement of the applicant be made as per rules subject to the availability of the vacancy and when the turn of the applicant comes.

6. It is borne out from the reply filed by the respondents that Shri P.K.Savita has not been appointed by the Accountant General (A&E), Rajasthan against whom the O.A was filed. The appointment of Shri P.K.Savita was made by the A.G.(Audit-I), which is a separate unit and under the separate Head of Department. When the other Head of Deparment has made appointment of Shri P.K.Savita, it cannot be said that the respondents in the O.A have re-engaged Shri P.K.Savita. The applicant therefore does not have right to claim re-engagement on the basis of appointment of Shri P.K.Savita.

7. For the appointment of Shri Ajeet Singh, it is stated that he has been appointed as Group'D' Chowkidar in a separate unit. The applicant cannot claim re-engagement on the basis of appointment of Shri Ajeet Singh also.

8. Moreover it is evident from the reply that there is no vacant post of Tea/Coffe maker. In the order, it was clearly stated that the re-engagement was to be made if vacancy exists. When there is no vacancy the respondents were not under an obligation to re-engage/reinstate the applicant as per the order dated 3.2.97.

9. It may be pointed out that this Tribunal vide order dated 5.4.2002 had directed the respondents to consider the appointment of the applicant in any Group'D' posts. That order has,however, been



quashed by the Hon'ble High Court of Rajasthan vide order dated 3.10.2002.

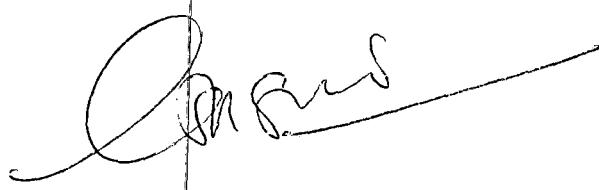
10. On 22.1.2003 when the arguments were heard, the applicant was given liberty to file written arguments within 2 days. Instead of filing written arguments he seems to have filed an affidavit on 22.1.2003 itself after the arguments were heard.

We have gone through the additional affidavit. The additional affidavit indicates that there are some vacancies in the canteen as per the Departmental Canteen Rules. The respondents in the Contempt Proceedings cannot be asked to fill up those posts in order to provide employment to the applicant.

In the affidavit it is also stated that 7 persons have been conferred temporary status including Shri P.K.Savita. This fact cannot be taken note of in the contempt proceedings. It is seen that some of them had been conferred temporary status in the year 1996 and some of them in 2002. In the order the court had not directed not to confer temporary status on the employees or to confer temporary status on the applicant.

In the affidavit it is also stated that there are 3 vacancies in the tiffin room, which are lying vacant. The respondents case is that there is ban on recruitment in the departmental canteens. In view of this fact, the respondents cannot be said to have committed contempt, when they have not engaged the applicant in the tiffin room.

11. The contempt is made out only when it is shown that the respondents /contemnors have deliberately violated the order of the Court. It is not established on record that the respondents have



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deliberately violated the order of the Court.

12. There being no merit in this Contempt Application it is dismissed. The notice stands discharged.


(A.P.Nagarath)

Administrative Member.


(G.L.Gupta)

Vice Chairman.

jsv.