

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Date of order: 12-7-1996

CP No. 141/95 (OA No. 390/88)

Manju Sharma .. Petitioner

Versus

Ramesh Tripathi and Anr. .. Respondents

Mr. K. Kamal Singh, counsel for the petitioner

Mr. U.D. Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

ORDER

Per Hon'ble Mr. O.P. Sharma, Administrative Member

In this Contempt Petition filed by Km. Manju Sharma, she has stated that the respondent have deliberately not obeyed the judgment of the Tribunal delivered in OA No. 390/88, Kumari Manju Sharma Versus Union of India & Ors., and therefore, the respondents may be sent to the civil imprisonment at least for six months and a fine of Rs. 2000/- may also be imposed on him, besides their being compelled to comply with the aforesaid order.

2. In the order of the Tribunal dated 6-9-94 passed in the aforesaid OA, broadly speaking there were two directions. One was that in the light of the judgment of the Jabalpur Bench of the Tribunal, delivered in a certain OA before the said Bench, the applicant should be considered for re-appointment. For that purpose, the applicant was to be called by the Railway Recruitment Board for selection for the post of Substitute Assistant Teacher. The second direction in the judgment was that the applicant should also be considered for regularisation

if persons similarly situated have been regularised or any persons junior to the applicant have been regularised. The learned counsel for the petitioner has stated that as regards the first direction, the petitioner was called by the Railway Recruitment Board for selection but the result of the said selection has not been communicated to her so far. Therefore, she does not know whether she has been selected or has been rejected. The learned counsel for the respondents produced before us a communication dated 24-6-94 issued by the Railway Recruitment Board, Ajmer, according to which the petitioner's roll number does not find place amongst the list of roll numbers of candidates who have been selected. The grievance of the learned counsel for the petitioner is that unless reasons are communicated to the petitioner why she has not been selected, it would not be a case of full compliance with the directions of the Tribunal.

3. As regards the second direction of the Tribunal regarding regularisation of the petitioner, the learned counsel for the petitioner admits that persons junior to the petitioner have not been regularised. However, he adds that several persons who are similarly situated have been regularised and, therefore, the petitioner is also entitled to regularisation. In this connection, he has specifically mentioned name of Shri K.D.Gupta, who was respondent No.3 in the OA and who has been regularised vide an order Ann.R2 dated 6/7-5-1981, alongwith several other candidates of various divisions

including Jaipur Division, whose names have been mentioned in the said Ann.R2. Therefore, since the petitioner was a person situated similarly to Shri K.D.Gupta, she was also entitled to regularisation. His further argument is that all the Substitute Assistant Teachers constitute one class, irrespective of their dates of appointment and, therefore, the petitioner should also have been regularised after other persons in this cadre had been regularised. The learned counsel for the respondents drew our attention to the additional reply filed on behalf of the respondents in which it has been stated that Shri K.D.Gupta had been appointed on 5-10-76 whereas the petitioner was appointed on 2-2-79. Therefore, according to him, the petitioner and Shri K.D.Gupta did not constitute one class or one cadre and, therefore, there was no question of regularisation of the petitioner merely because Shri K.D.Gupta had been regularised.

4. We have heard the learned counsel for the parties and have gone through the material on record.

5. As regards the first direction of the Tribunal ~~Opposite~~ the petitioner was indeed called for selection by the Railway Recruitment Board, Ajmer and she appeared before it. The communication dated 24-6-94 purports to be the result of the selection. The respondents should in fact have filed this document alongwith their reply. In any case, it is the case of the respondents that the petitioner's roll number does not find a mention in this communication as a person who has been selected. Apparently, there

is no procedure for communicating detailed reasons to a candidate why he or she has not been selected after the selection process is over.

The learned counsel for the petitioner also has had a look at this communication. We are satisfied that the first direction of the Tribunal has been complied with.

6. As regards the second direction, we agree that the Tribunal's direction in the order dated 6-9-94 was not merely that the petitioner should be considered for regularisation if her juniors had been regularised but also that she should be ~~ed~~ ^{considered} in order not to create any discrimination between similarly situated persons. Question now, therefore, is whether the petitioner can be considered to be a person similarly situated vis-a-vis those mentioned in Ann.R2 dated 6/7-5-1981 and particularly in relation to Shri K.D.Gupta who was respondent No.3 in the OA. This order Ann.R2 was passed in 1981 when Shri K.D.Gupta had already completed 3 years of service, having been appointed on 5-10-76. On the date on which this order was passed, the petitioner had not completed 3 years of service. Obviously, therefore, by this yardstick of completion of particular period of service for the purpose of regularisation, the petitioner and Shri K.D.Gupta cannot both ~~be~~ be stated to be similarly situated. The learned counsel for the respondents has further clarified during the arguments that after the order Ann.R2 was passed in 1981 no further order regularising any person has been passed subsequently and in any case no person junior to the petitioner has been regularised by any subsequent order.

7. In these circumstances and in view of our understanding of what is meant by expression "similarly situated persons" in the context of the present case, we are of the view that the petitioner was not eligible for regularisation on the same ground on which Shri K.D.Gupta was regularised. No doubt, in Ann.A3 dated 12-12-94, which is a communication sent to the petitioner after the Tribunal had passed the order dated 6-9-94, the respondents have merely stated that the petitioner has not been regularised because none of his juniors has been regularised. However, in view of the position explained before us, we are satisfied that the petitioner does not fall in the same category as Shri K.D.Gupta and, therefore, she was not entitled for regularisation merely because Shri K.D.Gupta had been regularised by order Ann.R2.

8. In the result, no case of contempt is made out against the respondents. The contempt petition is dismissed and the notices issued are discharged.


(O.P.Sharma)
Administrative Member

GKMR
(Gopal Krishna)
Vice Chairman