

Date of Order: 20/12/99

CP 174/95 (OA 83/93)

Miss Seema Zaidi D/o Late Shri Hirawal Hussain Zaidi, r/o House No.2845 (Ujala Public School), Chokri Ram Chandra Ji, Mehron Ki Nadi, Jaipur, presently working on daily wages at Regional Passport Office, Jaipur.

... Petitioner

Versus

1. Shri Salman Haider, Secretary to the Govt. Of India, Ministry of External Affairs, South Block, Central Secretariat, New Delhi.
2. Smt. Riva Ganguli Das, Passport Officer, Passport Office, SB-107, XX University Marg, Tonk Road, Jaipur.

... Respondents.

CORAM:

HON'BLE MR. S. K. AGARWAL, JUDICIAL MEMBER
HON'BLE MR. N. P. NAWANI, ADMINISTRATIVE MEMBER

For the Petitioner

... None

For the Respondents

... Mr. V. S. Gurjar

O R D E R

(PER HON'BLE MR. S. K. AGARWAL, JUDICIAL MEMBER)

This is an application u/s 17 of the Administrative Tribunals Act, 1985, arising out of the order passed in OA 83/93 on 17.5.94. This Tribunal vide order passed on 17.5.94 issued the directions as below :-

"After hearing the counsel for the parties, we direct that the cases of the ~~applicant~~ applicants shall be considered for regularisation in Group-D and consequential reliefs in accordance with the Scheme laid down under Annx.A6 shall be granted to them in accordance with their eligibility."

2. It is stated by the applicant that despite long lapse of time the opposite party did not comply with the directions given in OA 83/93 issued on 17.5.94. Even the applicant was not conferred temporary status, which is clear disobedience of the orders of this Tribunal. It is stated that a notice for demand of justice was

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served upon the respondents dated 17.10.95 but even then the legitimate grievance of the applicant remained unredressed. Therefore, the applicant makes a prayer to initiate contempt proceedings against the opposite party for wilful and deliberate disobedience of ~~xx~~ the directions of this Tribunal given in OA 83/93 on 17.5.94.

3. Show-cause was filed by the opposite party. It is stated in the reply that in compliance of the directions of this Tribunal given in OA 83/93 on 17.5.94 the case of the applicant was considered in the light of a scheme framed which was prepared as ~~xxxxx~~ a result of directions issued in the case of Raj Kamal and Others v. Union of India and Others, and found that the applicant does not fulfil the minimum eligibility criteria laid down by the department of Personnel, Government of India. Therefore, the applicant was not entitled for regularisation and the applicant has not done any act which could be termed by any stretch of imagination.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the opposite party has referred a judgement of Supreme Court delivered on 27.1.97 in SLP (Civil) No.2309 of 1997 CC No.734/97, Passport Officer, Trivandrum & Ors. v. Venugopal C. & Ors. In this case temporary status ~~was~~ granted to respondents was withdrawn/de-recognised as later on it was found that they were not recruited through Employment Exchange. It was held by the Apex Court that action of the appellant was not arbitrary.

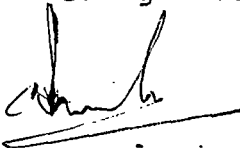
6. Disobedience of Court's order constitute contempt only when it is wilful or deliberate. It is the duty of the applicant to prove that the action of the alleged contemner to disobey the

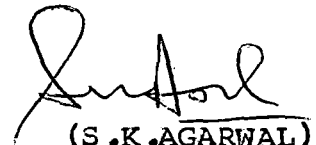
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order of this Tribunal was intentional. Mere delay in compliance of the directions/order of this Tribunal does not constitute contempt unless it is wilful.

7. In the instant case, no wilful/deliberate disobedience of the Tribunal's order dated 17.5.94 could be established by the applicant. In other words, the applicant failed to establish any wilful/deliberate disobedience on the part of the alleged ~~contemners~~ contemners. In our considered opinion, the opposite party had not done any act which could be termed as contempt in the facts and circumstances of this case.

8. We, therefore, dismiss this Contempt Petition and notice issued against the alleged contemners are hereby discharged.


(N.P. NAWANI)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)