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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.P.No.101/95

Date of order: 22.3.96

All India Soshit Karmachari : Petitioners

Sangh & Anr.

Vs.

Shri M.Ravindra & Anr. : Respondents

Mr.P.V.Calla : Counsel for petitioners

Mr.M.Bhandari : Counsel for respondents

CORAM:

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

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this contempt petition filed by All India Soshit Karmachari Sangh & Anr, <sup>they</sup> have prayed that the respondents may be personally called before the Tribunal to show cause why they should not be punished for committing contempt of this Tribunal's order dated 20.10.94 passed in O.A No.717/93 and that they may be directed not to accord further promotions to reserve category candidates who were given higher scale under upgradation scheme/restructuring scheme on the next higher post in the Ticket Checking Staff.

2. In the order passed by the Tribunal, the following directions were given:

"In the facts and circumstances, we direct the respondents to re-examine the cases of upgradation and apply the decisions of this Bench and other Benches of the Tribunal in the matter and in case of mainly upgradation, if the reservation has been applied against the rules, if any, should be rectified. The applicants will file a representation before the respondents giving the details about the mistake, if any, committed and the respondents shall determine the said representation within a period of three months from the date of submission of the representation. They will pass a specific

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speaking order on the said representation if submitted and in case the applicants feel aggrieved again or feel that the mistake has been committed in interpreting the law, they will be at liberty to approach the Tribunal afresh. O.A. stands disposed of accordingly."

3. According to the petitioners, in view of the directions of the Tribunal, the petitioners submitted their detailed representation on 5.1.1995 to the respondents pointing out the mistake committed by them, but even after the receipt of the aforesaid representation neither was any reply sent to the petitioners nor were the mistakes pointed out by the petitioners rectified, as directed by the Tribunal. Further promotions were also made to the higher scale on upgradation. Faced with this situation, the petitioners served a notice for initiating contempt proceedings on 10.2.95 and also sent reminders to the respondents. Therefore, by not dealing with the representation of the petitioners and by granting further promotions, the respondents have deliberately flouted the orders of the Tribunal for which they are liable to be punished under the Contempt of Courts Act.

4. At this stage before we deal with the reply of the respondents, it may be stated that earlier the respondents had with their reply annexure Annx.F1, which was a communication dated 14.6.95 addressed to the petitioners. In this communication, there was a reference to the representation dated 20.10.94 stated to have been submitted by the petitioners. It was contended by the learned counsel for the petitioners at that time that since the representation submitted by the petitioners <sup>was</sup> dated 5.1.95, it had in fact not been disposed of by the respondents in accordance with the directions of the Tribunal and that it was still pending. Accordingly, the Tribunal directed the respondents on 8.9.95

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that they should deal with the representation dated 5.1.95 and the notice of contempt dated 9.2.95 afresh, meeting all the points raised therein and the judgments relevant on the subject to some of which attention had been drawn by the learned counsel for the petitioners also. The respondents were directed to send a detailed communication to the petitioners, thereafter.

5. Thereafter, the respondents have filed an additional reply on 26.2.96 with which they have enclosed the document Annx.E2 dated 8.2.96 which according to them, deals with the representation dated 5.1.95 and the notice of contempt dated 9.2.95, sent by the petitioners. In this additional reply, they have also tendered their unconditional apology for the delay caused in deciding the representations as well as the notice which according to them was because the representations were bulky and required minute re-examination to detect any mistake in the action taken by them.

6. During the arguments, the learned counsel for the petitioners stated that the communication dated 8.2.96 by which the respondents are supposed to have <sup>be</sup> ~~delt~~ <sub>^</sub> with their representations and the notice of contempt, shows that the respondents have not dealt with the representation and the notice of contempt properly and this, therefore, does not constitute a compliance with the order of the Tribunal. He particularly stressed the point that the reservations in promotions on upgradation/restructuring had been granted in spite of the petitioners pointing out that such action was not permissible and in violation of the judgments of various Courts and the Tribunal. He also stated that the representation dated 5.1.95 was dealt with by order dated 8.2.96, whereas the Tribunal's order is dated 20.10.94. The respondents have committed contempt of court by not complying with the order of the Tribunal within a period of 3 months from the date of the

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order, as laid down by the Tribunal, and that the explanation given by them for delay in complying with the directions of the Tribunal is unconvincing and does not merit any consideration.

7. The learned counsel for the respondents stressed the point that the respondents had already been an unconditional apology for the delay caused which was due to the fact that some more time was required for examining the representation and the notice of contempt due to complexity of the matter. He also pointed out that the respondents had in fact earlier disposed of the representation but by mistake they have not mentioned the correct date of the representation submitted by the petitioners. It was for this reason that the Tribunal had directed the respondents on 3.5.95 to pass a fresh order dealing with the representation dated 5.1.95 and the notice of contempt sent by the petitioners. He added that there has been compliance with the orders of the Tribunal inasmuch as the points raised in the representation and the notice of contempt have been dealt with in the communication dated 8.2.96 (Annx.F2) enclosed with the additional reply. He has further stated that if on merits, the petitioners find that the issues raised by the petitioners in the representation and the notice of contempt had not been accordingly dealt with, the course open to them is to file a fresh application, wherein the issues raised can be adjudicated on merits.

8. We have heard the learned counsel for the parties and have gone through the material on record. It is unfortunate that the respondents have taken considerable time in dealing with the representation of the petitioners. Without going into the question whether they had in fact earlier dealt with this representation and had merely mentioned the date of the representation incorrectly in their communication to the petitioners, we may point out that even after the directions

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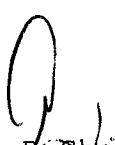
dated 8.9.95 were issued to the respondents, they took more than 3 months to dispose of the representation dated 5.1.95 and the notice of contempt sent by the petitioners. This Tribunal expresses its displeasure over the delay caused by the respondents in making compliance with the orders of the Tribunal. However, since an unconditional apology has been tendered for the delay, we do not propose to pursue the matter further.

9. As regards the merits of the case, the direction of the Tribunal was that the petitioners shall submit a representation raising issues about which they were agitated and the mistakes committed by the respondents and this shall be dealt with by the respondents on merits within a specified period. By communication dated 8.2.96 (Annx.P2) the respondents have dealt with the points raised by the petitioners in the manner in which they have considered it appropriate. In a contempt petition, it is not for the Tribunal to adjudicate on the merits of the issues raised. We, after perusal of Annx.P2 dated 8.2.96, we cannot say that this communication does not constitute a disposal of the representation and the notice of contempt. In the Tribunal's order dated 20.10.94 itself a liberty had been given to the petitioners that in case they feel aggrieved again or feel that mistakes have been committed by the respondents in interpreting law, they would be at a liberty to approach the Tribunal afresh. If as stated by the learned counsel for the petitioners there have still been any mistakes in dealing with the matter by the respondents these may be in the matter of interpretation of the law.

9. In the above circumstances, we hold that no case of contempt of the Tribunal now remains. The contempt petition is, therefore, dismissed and the notices issued are discharged.

  
(Ratan Prakash)

Member(Judl)

  
(O.P. Sharma)

Member(Adm).