

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 23.11.2000

OA No.399/2000 & CP No.42/2000

1. Om Prakash S/o Shri Gopi Dhanka r/o Gram Chandsein, Distt. Tonk.
2. Rati Ram Mali s/o Shri Radha Kishan r/o Gram Chandsein, Distt. Tonk.
3. Ganpat s/o Suwa Lal r/o Gram Chandsein, Distt. Tonk
4. Santi w/o Prem Narain r/o Gram Malpura, Distt. Tonk
5. Shyaji s/o Rajbaj r/o Gram Ambapura, Distt. Tonk
6. Manphooli w/o Shri Ladu Pagar r/o Gram Ghati, Distt. Tonk
7. Hanuman s/o Shri Gopi Mali r/o village Chandsein, Distt. Tonk
8. Devkaran s/o Bhura r/o Village Chandsein, Distt. Tonk
9. Brij Raj s/o Shri Shyokaran Gurjar r/o Malpura Distt. Tonk

.. Applicants

Versus

1. Union of India through the Secretary, Ministry of Agriculture, Government of India, New Delhi.
2. Indian Grass and Fodder Research Institute, Jhansi.
3. Western Regional Research Sub-centre, Avika Nagar, Malpura, Distt. Tonk.

.. Respondents

Miss Ashish Josh, counsel for the applicants

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. N.P.Newani, Administrative Member

Order

Per Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Though the matter is listed in the preliminary stage but with the consent of the parties we have heard it finally.

2. The learned counsel for the respondents raised serious preliminary objections that the present OA is not maintainable in view of the earlier OA 113/99 which was disposed of vide order dated 20.7.2000. He submitted that the present pleadings and the pleadings in the earlier OA are one and the same, therefore, the OA is barred by res-judicata. On the other hand, the learned counsel for the applicants submitted that in the earlier OA vide order dated 20.7.2000, the respondents were directed to consider the applicants' case for conferment of temporary status, if they are found fit, by computing the period of 240 days service in pursuance of the judgment of the Apex Court and the instructions issued by the Department as mentioned in Ann.A9. The learned counsel for the applicants contended that instead of considering the case of the applicants in terms of para 8 of the order, they have passed the present cryptic order stating that in view of the directions of this Tribunal, services of the applicants are terminated. This order dated 25th August, 2000 did not direct the termination of the applicants. The learned counsel for the applicants also submitted that the applicants have also filed a Contempt Petition for disobedience of the order of this Tribunal dated 20.7.2000 in OA No.113/99. Therefore, the principles of res-judicata would not apply to the facts of this case.

3. The learned counsel on both sides brought to our notice the other documents filed in the case.

4. From the reading of the order of this Tribunal dated 20.7.2000 in OA No. 113/99, we find that this Tribunal directed the respondents as follows:-

"i) to consider the applicants for conferment of temporary

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status, if they found fit, by computing the period of 240 days service in pursuance of the judgment of Hon'ble the Apex Court, as referred above, and the instructions issued by the department as mentioned in Annexure A/9.

ii) The respondents are also directed to consider the applicants for regularisation, in case they are found fit and subject to the availability of posts."

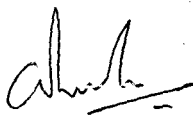
From this it follows that the Department was required to consider the case of the applicants by computing the period of 240 days of service for the purpose of conferring temporary status to them, in the light of the judgment of the Supreme Court and also in the light of the Department's letter vide Ann.A9. From reading of Ann.A1, the impugned order, we find that the Department has not applied its mind so as to consider the case of the applicants for conferment of temporary status. Instead of that, they have passed a cryptic order terminating services of the applicants stating that this has been done as directed by this Tribunal. This Tribunal has not directed the respondents to terminate the services of the applicant vide order dated 20.7.2000. This Tribunal simply directed to consider the applicants' case for conferment of temporary status, if they are found fit, by computing 240 days in pursuance of the judgment of the Apex Court. Therefore, this order has been passed without complying with the directions issued by this Tribunal vide order dated 20.7.2000. Prima-facie it may amount to contempt for not obeying the directions of this Tribunal. The learned counsel for the respondents submits that perhaps under the mistaken belief the respondents had passed this order and they had no intention to disobey the order of this Tribunal. By accepting the plea put on behalf of the respondents, we think not to initiate contempt proceedings against the respondents on this count. At any rate, we are of the opinion that the impugned order dated 25th August, 2000 is liable to be quashed being just contrary

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to the directions issued by this Tribunal in OA No. 113/99 vide order dated 20th July, 2000. Hence we pass the order as under:-

"Application is allowed. The impugned order dated 25th August, 2000 is hereby quashed. Meanwhile the respondents shall comply with the directions of this Tribunal issued in OA No. 113/99 vide order dated 20.7.2000 within a period of two months from today. The applicants are entitled to be continued till their case is considered as per the directions issued by this Tribunal vide order 20.7.2000. This order also dispose of the separate Contempt Petition filed by the applicants in CP No. 42/2000. No. costs.



(N.P.NAWANI)

Adm. Member



(B.S.RAIKOTE)

Vice Chairman