

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**C.P. No. 63/2014
O.A No. 303/2000**

**Date of Reserve : 05.04.2016
Date of Pronouncement :18.04.2016**

Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. K. N. Srivastava, Member (A)

1. Sh. Bhupender Kardam, Age-32 years,
S/o. Late Sh. Chotte Lal Kardam
H. No. 306, Dollat Pura-II,
Rohal Vihar, Near Sharma Store,
G. T. Road, Ghaziabad-201 001 (U.P.)
2. Sh. Daya Chand, Age-41 yrs.,
S/o. Late Sh. Tika Ram,
VPO-Amber Hai, H. No-214,
Dwarka Sector-19,
New Delhi-75.
3. Sh. Sanjay Solanki, Age-38 years,
S/o. Sh. M.S. Solanki,
VPO-WZ-1, Palam Village,
New Delhi-45.
4. Sh. Umesh Kumar, Age-35 years,
S/o. Sh. Mahaveer Singh,
VPO-Ukhlina, Post-Kalyan Pur,
District-Meerut, U.P.
5. Sh. Vijay Sharma, Age-37 yrs.,
S/o. Sh. Chander Prakash Sharma,
VPO-H. Block, H. No. 221,
Gali No.-2, Phase-3, Ashok Vihar Extension,
Gurgaon (Haryana). ...Petitioners

(Argued by: Mr. Sachin Chauhan, Advocate)

VERSUS

1. Sh. Radha Krishna Mathur
Secretary,
Ministry of Defence,
South Block,
New Delhi-1.

2. Col. Puneet Bhardwaj
Commander,
Works Engineer (AF),
Palam, Delhi Cantt-110 010.

3. Sh. J. Sikand (V. S.M.) ADC,
Engineer-in-Chief,
Kashmir House,
Shahjahan Road,
New Delhi-110 011.

....Respondents

(By Advocate : Mr. Hanu Bhaskar)

ORDER

Justice M. S. Sullar, Member (J)

The crux of the facts and material relevant for the limited purpose of deciding the instant Contempt Petition (CP) and emanating from the record, is that initially the applicants, Shri Bhupinder Kardam and 5 others, had filed the O.A bearing No. 303/2000 challenging the selection of 7 private respondents no. 8 to 14 to the post of Mazdoor in the Organisation of respondents, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985 (hereinafter to be referred as “the Act”).

2. Having completed all the codal formalities, the O.A was allowed vide order dated 22.01.2002 by this Tribunal, the operative part of the order is as under :-

“10. In the above view of the matter, the OA succeeds and is accordingly allowed. The impugned selection of the individuals concerned is set aside. The respondents are directed to hold a fresh selection out of all those who have successfully completed the physical tests by interview through a fresh Selection Committee, wherein those related to the candidates do not play any part. This may be done within four months from the date of receipt of a copy of this order. This also would not cause any legitimate heartburn to those who are selected, as in terms of the interim order granted at

the time of admission on 16.02.2000, the appointments have been made subject to the final order in the O.A. No costs."

3. The petitioners claimed that the respondents have not complied with the directions contained in the order of this Tribunal.

4. Aggrieved thereby, the petitioners have preferred the instant C.P. against the respondents under Section 17 of the Act read with Section 14 of the Contempt of Court Act, mainly on the ground that the order dated 22.01.2002 of this Tribunal has already attained the finality as the same has been upheld by Hon'ble High Court in Writ Petition No. 3381/2002 decided on 12.11.2013. They have apprised the respondents about the judgment of the High Court and requested them to comply with the directions of this Tribunal, but in vain. According to the petitioners, the action of the respondents not to comply with the indicated directions is wilful and deliberate, rendering them liable for contempt proceedings. On the basis of aforesaid allegations, the petitioners pleaded that contempt proceedings be initiated to punish the respondents.

5. The contesting respondents refuted the allegations of the petitioners and filed the compliance report dated 24.04.2015 by way of affidavit of Col. Puneet Bhardwaj wherein it has been mentioned that in compliance of the order dated 22.1.2002 the respondents have terminated the services of all the 24 selected candidates vide order at Annexure R-1 (colly)

and sought further time of four months to complete fresh recruitment process.

6. During the pendency of the contempt petition, Shri. Kapil Gupta and 11 Ors. selected candidates, had filed O.A No. 3606/2014 challenging the show cause notice issued to them for termination of their services. This Tribunal vide interim order dated 13.10.2014 directed the respondents not to pass any adverse order against them on the basis of the impugned show cause notice. In spite of that, services of the said applicants were terminated whereupon they filed C.P. No. 301/2015. The respondents then withdrew the termination order. Accordingly the C.P and the main O.A were disposed of as having become infructuous vide order dated 29.05.2015 by this Tribunal.

7. Sequelly, Mr. Padam Kumar and Mr. Manoj Kumar had also filed independent O.A bearing No. 2669/2015 challenging the similar show cause notice. Taking into consideration the parity of decision in **O.A No.3606/2015** filed by Mr. Kapil Gupta and Ors., the **O.A** bearing **No. 2669/2015** filed by them was allowed. The show cause notice and termination orders were set aside vide order dated 08.10.2015 by this Tribunal.

8. Similarly, the respondents have filed another compliance report dated 03.11.2015 by way of an affidavit of Col. Puneet

Bhardwaj wherein he has stated that in compliance of order dated 2.11.2015, the result of 6 successful candidates was declared on 02.11.2015. Thus the respondents have prayed for dismissal of the Contempt Petition.

9. After hearing learned counsel for the parties, going through the record with their valuable assistance and after considering the entire matter deeply, we are of the firm view that there is no merit in this C.P.

10. Ex-facie the arguments of learned counsel for petitioners that since the respondents (alleged contemnor) have not conducted the exercise of new selection in respect of all the 24 posts as directed by this Tribunal, so they are liable to be punished for contempt, is not only devoid of merit, but misplaced as well.

11. As is evident from the record and reproduced above, that the impugned selection of individuals concerned was set aside. The respondents were directed to hold a fresh selection out of those who have successfully completed the physical test by holding interview through a fresh selection committee wherein the relatives of the candidates do not play any part. Now the simple question that arises for the determination in this Contempt Petition is as to whether the direction of this Tribunal was with regard to fresh selection for the 7 posts to which the party/respondents, in the main OA were appointed

or related to all the 24 posts as urged on behalf of the petitioners.

12. Having regard to the rival contention of the learned counsel for the parties, we are of the considered opinion that the indicated order of the Tribunal was applicable only to the 7 posts to which the selection of the selected 7 candidates was challenged on the ground that their relatives were members of the selection committee and who were also party/respondents no. 8 to 14, in the main O.A. It is not a matter of dispute that the remaining 17 selected candidates were not impleaded as respondents nor their selection was ever challenged by the petitioners in the OA. Therefore, the order of this Tribunal cannot be read to mean that the respondents were required to hold a fresh selection of all the 24 posts. Since the selection of only 7 candidates (respondents no. 8 to 14) were challenged, hence the respondents were required to complete the exercise of fresh selection pertaining to only 7 posts held by respondents 8 to 14 in the O.A.

13. Not only that, initially the respondents have issued show cause notices to all the 24 selected candidates in the garb of the order of this Tribunal. Thereafter, Padam Singh and Manoj Kumar, filed **OA No. 2669/2015**, challenging the show cause notice. The O.A was allowed. The impugned show cause notice and termination orders were set aside vide order dated

08.10.2015 by this Tribunal. The operative part of the order is as under:-

8. We have perused the judgment (Annexure A-3) of the Tribunal and judgment (Annexure A4) of the Hon'ble High Court which makes it clear that selection of only respondent Nos. 8 to 14 of the said OA was set aside and the entire selection of all the 24 candidates was not set aside. This conclusion is fortified by the fact that the other selected candidates were not even party to the said OA and, therefore, their selection could not have been set aside without making them party to the OA. This conclusion is also manifest from the judgment of the Hon'ble High Court (Annexure A-4). This conclusion is also arrived at on the basis of the grounds raised in the said OA to challenge the selection of only respondents No. 8 to 14 of the said OA.

9. In view of the aforesaid, we are of the considered opinion that selection of only said 7 candidates who were respondent nos.8 to 14 in OA No.303/2000 was set aside and selection of the remaining 17 candidates including the applicants was not set aside by the judgment Annexure A -3). Consequently on the basis of the judgment (Annexure A-3), services of the applicants could not have been terminated. This view is further supported by the fact that the respondents themselves had withdrawn the termination orders of similarly situated candidates Kapil Gupta & Ors. who were applicants in OA No. 3606/2014. Consequently, the applicants cannot be treated differently.

10. For the reasons aforesaid, the instant OA is allowed. Impugned show cause notices (Annexure A-1 collectively) and impugned termination orders (Annexure A-2 collectively) of the applicants are set aside. The applicants shall be reinstated in service within four weeks from today. They shall be entitled to all consequential benefits of continuity of service, but only 50% of arrears of back wages from the date of their termination till the date of their reinstatement in service. No order as to costs."

14. Thus, it stands proved on the record that the respondents were required to complete the fresh selection process pertaining to the 7 posts occupied by respondents no. 8 to 14 only and not against the remaining 17 selected candidates, as urged on behalf of the applicant. As per compliance report by way of affidavit dated 03.11.2015 of Col. Puneet Bhardwaj, the respondents have already declared the result of successful candidates on 02.11.2015 itself in

pursuance of order dated 22.01.2002. Therefore, once the respondents have complied with the directions contained in the order of this Tribunal, no ground, much less any cogent to initiate contempt proceedings against them is made out in the obtaining circumstances of the case.

15. In the light of the aforesaid reasons, as there is no merit, the Contempt Petition is hereby dismissed and the notices issued are discharged. No order as to costs.

(K. N. Shrivastava)
Member (A)

(Justice M. S. Sullar)
Member (J)

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