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Court : Delhi

Decided On : May-08-2006

Reported in : 129(2006)DLT819

Judge : Pradeep Nandrajog, J.

Appeal No. : Cont. Cas(C) No. 716/2003

Appellant : Ranbir Singh and ors.

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : Maneesha Dhir and ; Preeti Dalal, Advs.

Advocate for Pet/Ap. : Rishi Malhotra, Adv

Disposition : Petition dismissed

Judgement :

Pradeep Nandrajog, J.

1. OA. No. /1826/91 was filed by the petitioners directing that the Ministry of Information & Broadcasting, Government of India should regularize their services. Petitioners were working as casual Group 'D' employees. OA was disposed of vide order dated 7.4.1992 directing that against future vacancies to Group 'D' posts, regularisation of petitioners shall be effected. Challenge to the decision of the

Central Administrative Tribunal by and under WP(C) No. 3201/98 was rejected by this Court when on 11.10.1999 the said writ petition was dismissed.

2. Issue thereafter arose as to how should regularisation be effected against future vacancies. There were various departments under the Ministry of Information & Broadcasting, besides work places scattered all over India. Another OA No. 756/2000 was filed. Same was disposed of by the Tribunal vide order dated 23.2.2001. Claim projected by the petitioners in the said OA for regularisation was rejected. Another petition followed being OA. No. 1070/2000. Certain directions were issued therein pertaining to mode of regularisation.

3. Order dated 23.2.2001 passed in OA. No. 756/2000 was challenged by the petitioners by and under WP(C) No. 3798/2000. While upholding the order passed by the Tribunal, vide order dated 22.3.2002, Division Bench of this Court issued certain directions, non-compliance whereof is stated to be an act of contempt by the respondents. Following was observed by the Division Bench:

This position would have given quietus to the matter. However, the learned Counsel for the petitioner drew our attention to certain documents filed on record on the basis of which it was contended that Group 'C' posts existed in Delhi Office even today. He further submitted that the applicants who belong to Group 'D' category are the employees of very low rank and they should not be sent to far flung places. Having regard to the facts as well as the spirit of a judgment of the Supreme Court to the effect that Class IV employees should not be transferred to far flung places (although that case relates to transfer), we dispose of this writ petition with direction to the respondents to consider the cases of the petitioners along with other eligible candidates as per the extant rules for regularisation keeping in view their seniority and in the event it is possible to accommodate them in Delhi an exercise to that effect may be undertaken.

The writ petition accordingly stands disposed of.

4. Petitioners grievance as projected in the contempt petition is that one Smt. Veena in the Publication Division, much junior in the seniority list, has been regularised in violation of the directions issued by the Division Bench which

mandates regularization as per seniority.

5. Since claim is predicated on the order dated 22.3.2002 passed by the Division Bench in WP(C) No. 3798/2001 suffice would it be to note that directions of the Division Bench required a seniority list of eligible candidates to be prepared and regularisation effected as per extant Rules.

6. Response filed by the respondent is to the effect that it has not breached the direction issued by this Court. Justification for the action has been furnished.

7. Supplementary and additional pleadings came on record as from time to time, petitioners kept on placing additional material by and under CM. No. 12721/04, CM. No. 12722/04 and in the rejoinder thereto. On a simple issue, record of the contempt petition has swelled to 239 pages.

8. I am, thereforee crystallising the basic bone of contention between the parties.

9. Needless to state, respondents are obliged to effect regularisation as per the seniority maintained. The said seniority list is an admitted list. Smt. Veena as also one Manoranjan, who are much junior to the petitioners have been admittedly regularised. In addition thereto, seven other persons, names whereof were furnished by the petitioners in court when matter was heard on 10.1.2005, junior to the petitioners have been regularised. Issue, thereforee is, whether by regularising the said nine persons including Smt. Veena and Manoranjan have respondents committed contempt of the orders passed by this Court.

10. Undisputed position is that 7 persons in the list of 9, which includes the name of Smt. Veena and Manoranjan, belong to OBC category and, thereforee, regularisation has been effected in vacancies which have accrued in the OBC category. Petitioners are not in OBC category and, thereforee, cannot predicate any infringement of their right.

11. Pertaining to Smt. Veena, admitted position is that she was regularised being a lady. Date of regularisation has not been brought on record by either party but what is relevant is that she was regularised much prior to 5.11.2001 evidenced by the fact that when WP(C) No. 3798/2001 was being heard, an additional affidavit

was filed by the respondents in which effect of regularisation of services of Smt. Veena was brought to the notice of the Division Bench.

12. Since services of Smt. Veena were regularised prior to the date when Division Bench issued directions on 22.3.2002. Question of the respondents acting in breach of the mandamus issued for regularising services of Smt. Veena does not arise. Though junior, she was regularized much prior being a lady. The act may be wrong but certainly is not contemptuous.

13. As regards Manoranjan, the position which has emerged is that Manoranjan had filed OA. No. 3068/01 praying that he had a right to be regularised against the post of Farash and the Central Administrative Tribunal allowed OA. No. 3068/01 vide order dated 10.8.2004. Writ petition filed by the department in this Court being WP(C) 2215/04 was dismissed vide order dated 17.3.2004 resulting in the respondents being compelled to give effect to order dated 10.8.2004 passed in OA.3068/2001.

14. Respondents did not voluntarily regularise the services of Manoranjan. He got an order in his favor from Central Administrative Tribunal. Unfortunately respondents could not succeed in the writ petition filed by them.

15. It is settled law that where a person is compelled to do an act under pains of penal consequences for not doing the act, the person cannot be faulted with. Notwithstanding Manoranjan being junior to the petitioners, since his regularisation is due to the judicial order, respondents cannot said to be in contempt of orders passed by the Division Bench of this Court reliance whereof has been placed by the petitioners.

16. Notice of contempt is accordingly discharged. Contempt petition is dismissed.

17. No costs.