
(2018) 02 CAT CK 0033

In the Central Administrative Tribunal

Case No : Contempt Petition No. 772 Of 2017, Original Application No. 3810 Of 2017

Surender Thakur And Ors

APPELLANT

Vs

Rajiv Jain And Ors

RESPONDENT

Date of Decision : 19-02-2018

Acts Referred:

Citation : (2018) 02 CAT CK 0033

Hon'ble Judges : Raj Vir Sharma, J;Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : U. Srivastava, Hanu Bhaskar

Final Decision : Dismissed

Judgement

Raj Vir Sharma, J

1. We have carefully perused the records and have heard Mr. U. Srivastava, learned counsel appearing for the applicant-petitioners, and Mr. Hanu Bhaskar, learned counsel appearing for the official respondent-opposite parties.

2. In OA No.3810 of 2017, the applicants (including applicant-petitioners in CP No.772 of 2017), nine in number, claim to have been engaged by the respondent-Department on 9.9.1993, 1.1.1995, 25.10.2008, 1.11.2008, 20.10.1994, 15.11.1995, 1.6.1995, 1.5.1998 and 1.5.2006, respectively, to work as casual workers in different Sections of the Intelligence Bureau Central Training School.

2.1 Prior to their filing the instant OA No.3810 of 2017, the applicants had earlier filed OA No.2942 of 2017, OA No.3154 of 2017, and CP No.656 of 2017 in the matter of consideration of their cases for regularization of services, etc..

2.1.1 The Tribunal, by order dated 8.9.2017, had dismissed OA No.2942 of 2017 as being withdrawn by the applicants.

2.1.2 The Tribunal, by order dated 12.9.2017, had disposed of OA No.3154 of 2017 at the stage of admission itself and directed the respondent-Department to

consider and pass a reasoned order on the applicant's representation within the stipulated period. It was also directed by the Tribunal that till the consideration and passing of the order, as above, the respondents shall continue the applicants "if there is work and in preference to any juniors/freshers/outsourced employees".

2.1.3 In compliance of the Tribunal's order dated 12.9.2017(ibid), the respondent-Department considered the applicants' representation, but rejected the applicants' request for considering their cases for regularization, vide order dated 27.10.2017.

2.1.4 The Tribunal, by order dated 30.10.2017, closed CP No.656 of 2017 and granted liberty to the applicants to initiate appropriate proceedings in the matter as per laws.

2.2 Hence, the instant OA No.3810 of 2017 was filed by the applicants praying for quashing of the respondent-Department's order dated 27.10.2017(ibid) and for a direction to the respondents to allow the applicants to continue in service and not to replace the applicants by juniors/freshers/outsourced employees, and also to regularize their services as per rules.

2.2.1 The applicants also prayed for interim relief of a direction to the respondents to continue the services of the applicants including applicant nos. 1 and 4.

2.3 OA No.3810 of 2017 was placed for consideration of the question of admission on 1.11.2017 when the coordinate Bench of the Tribunal issued notices to the respondents and directed that "In the meanwhile, the respondents are directed to continue the services of the applicants, if there is work, and in preference to their juniors/freshers/outsourced employees".

3. C.P.No.772 of 2017 was filed by applicant nos.1 and 4 alleging that by disobeying the Tribunal's order dated 1.11.2017(ibid), the official respondent-opposite parties did not allow them to work after 18.9.2017 and 10.9.2017 respectively, although the private respondents (juniors to the applicant-petitioners) and three freshers, namely, Sunil (engaged on 14.9.2017), Balbir (engaged on 21.9.2017) and Satender (engaged on 24.9.2017) have been allowed by the official respondent-opposite parties to continue to work as casual labourers, and, therefore, the Tribunal should initiate contempt proceedings against the official respondent-opposite parties and punish them in accordance with law.

4. Resisting CP No.772 of 2017, the official respondent-opposite parties have filed a counter reply.

5. After having given our anxious consideration to the materials available on record and upon hearing Mr.U.Srivastava, learned counsel appearing for the applicant-petitioners, and Mr.Hanu Bhaskar, learned counsel appearing for the official respondent-opposite parties, we have found no substance in CP No.772 of

2017.

6. The applicant-petitioners have not placed before this Tribunal any material to show that the official respondent-opposite parties have allowed the private respondent-opposite parties and three freshers to work as casual workers, while disallowing the applicant-petitioners to work as casual workers although there is need of the work earlier performed by them. The applicant-petitioners have also failed to demonstrate before this Tribunal that the work earlier performed by them is being performed by any of the private respondents or freshers. In terms of the Tribunal's order dated 1.11.2017(ibid), the applicant-petitioners cannot claim to continue to be engaged by the official respondent-opposite parties to work as casual workers if there is no work available for them, which was being performed by them earlier. If at all, considering the need/nature of work performed by the remaining applicants, private respondent-opposite parties, and freshers, the official respondent-opposite parties have allowed them to work as casual workers on need basis, it cannot be said that the official respondent-opposite parties have willfully and deliberately flouted the Tribunal's order dated 1.11.2017(ibid). It is trite law that contempt jurisdiction is to be exercised sparingly and in very deserving cases only and not casually. Such a power is not intended to be exercised as a matter of course. In the above view of the matter, we dismiss CP No.772 of 2017 and discharge the notices issued to the official respondent-opposite parties. No costs.