

**IN THE HIGH COURT OF PUNJAB AND HARYANA AND CHANDIGARH
107 (*PROCEEDINGS THROUGH V.C.*)**

CWP-9437-2021

Date of decision: 04.05.2021

NAVEEN KUMAR AND OTHERS

...PETITIONERS

V/S

CENTRAL ADMINISTRATIVE TRIBUNAL AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Harkirat Singh Ghuman, Advocate,
for the petitioners.

Ms. Puneeta Sethi, Sr. Standing Counsel,
for respondents No. 2 and 3.

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 20.09.2016 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, whereby contempt petition preferred by the petitioners alleging non-compliance of the order dated 01.07.2014 (Annexure P-4) passed in O.A. No. 836/HR/2013 disposing of the said O.A. with certain directions, was dismissed as infructuous with liberty to the petitioners to avail of any remedy available under law qua the order dated 15.05.2015 read with order dated 18/26.07.2013 holding therein the petitioners ineligible for regularization of their services and order dated 16.01.2020 (Annexure P-2)

passed in Misc. Application No. 60/1888/2019 in CP No. 60/77/2015 dismissing the said application for giving effect to the statement given by the respondents during the contempt proceedings on 20.09.2016, stands dismissed.

2. It is the contention of the learned counsel for the petitioners that the petitioners have filed OA No. 836 of 2013 before the Central Administrative Tribunal, Chandigarh Bench for regularization of their services in the Income Tax Department where they were working continuously as casual/daily wage workers for the past many years. Instructions dated 09.05.2013/13.05.2013 were issued by the Central Board of Direct Taxes, New Delhi-respondent No. 4 directing all the Chief Commissioners of Income Tax and Director Generals of Income Tax not to employ casual/daily wage workers for regular work and a further prayer was made for regularization of their services against available vacant posts. The said Original Application was allowed by the Tribunal by setting aside/quashing the above-mentioned impugned Instructions dated 09.05.2013/13.05.2013 passed by the Central Board of Direct Taxes and ordered the setting in motion of the process of consideration of the claims of the petitioners for regularization of their services from the date of the order i.e. 01.07.2014 (Annexure P-4).

3. When the respondents failed to comply with the above order dated 01.07.2014, Contempt Petition No. 77 of 2015 was instituted by the petitioners. Notice was issued to the respondents on 16.04.2015. Reply/compliance report was submitted by the respondents on 18.05.2015 stating therein that the claim of the petitioners for regularization was, on consideration, found to be non-acceptable as they were ineligible for

regularization. A speaking order dated 15.05.2015 (Annexure P-6) was passed. Petitioners placed on record additional documents to support their claim for regularization vide Misc. Application No. 808 of 2015 with a further pleading that their claim has wrongly been rejected. The matter finally came up for hearing before the Central Administrative Tribunal on 20.09.2016 (Annexure P-1) when the contempt petition was dismissed as infructuous in the light of the order dated 15.05.2015 read with order dated 18/26.07.2013, whereby the claim of the petitioners, on consideration, was rejected having been found to be ineligible for regularization of their services. Liberty was also given to the petitioners to avail of their remedy qua these impugned orders.

4. Petitioners have also pointed out that the respondents challenged the order passed by the Tribunal dated 01.07.2014 (Annexure P-4) passed in O.A. No. 828 of 2013 by filing CWP No. 1172 of 2016. The said writ petition was withdrawn by the respondents vide order dated 25.09.2017 (Annexure P-15) seeking liberty to file a review petition before the Tribunal. The Court permitted the withdrawal of the writ petition by observing that it would be open to the respondents to take recourse to the remedies as may be available to them in accordance with law.

5. It is asserted that the petitioners waited for the respondents to file the review application before the Tribunal but when no such step was taken, petitioners filed MA No. 1888 of 2019 praying for giving directions to the respondents to comply with the statement given by the counsel for the respondents during the contempt proceedings on 20.09.2016 (Annexure P-1) to re-consider the claim of the petitioners for regularization of their services. Petitioners have asserted that the respondents had virtually

accepted the fact that they have passed the order dated 15.05.2015 wrongly but the Tribunal, while passing the order dated 20.09.2016 (Annexure P-1), did not take that into consideration. The said application was dismissed by the Central Administrative Tribunal vide order dated 16.01.2020 (Annexure P-2) by observing that the application preferred by the petitioners was a misuse of process of law and wastage of precious time of the Court. Cost of ₹20,000/- for abusing the process of law and misleading the Court was also imposed. These orders passed by the Tribunal dated 20.09.2016 (Annexure P-1) and 16.01.2020 (Annexure P-2) have been assailed by the petitioners.

6. It is the contention of the learned counsel for the petitioners that vide order dated 01.07.2014 (Annexure P-4), not only the Tribunal had proceeded to set aside/quash the impugned orders dated 09/13.05.2013 and 22.05.2013 but had also proceeded to direct the respondents to set in motion the process for regularization of the services of the petitioners. The claim of the petitioners for regularization being covered by the instructions of the respondents as well as the various judgments passed by the Hon'ble Supreme Court and other Courts could not have been rejected. He, therefore, asserts that when the order dated 01.07.2014 (Annexure P-4) had not been complied with by the respondents, order dated 20.09.2016 (Annexure P-1) passed by the Central Administrative Tribunal in the contempt petition preferred by the petitioners dismissing the same as infructuous cannot sustain rather the Tribunal should have proceeded to call upon the respondents for non-compliance of the order passed by the Tribunal granting the benefit of the regularization of the services of the petitioners. He asserts that only a formal order was passed by the respondents but the Central Administrative Tribunal, while passing the

order dated 20.09.2016 (Annexure P-1), had proceeded on a wrong assumption that there was only a direction for consideration of the claim of the petitioners and the respondents had, therefore, proceeded to consider the claim of the petitioners for regularization and had found them ineligible vide order dated 15.05.2015 read with order dated 18/26.07.2013. He, thus, contends that these orders being in violation of the order passed by the Tribunal dated 01.07.2014 (Annexure P-4) cannot sustain.

7. As regards the order dated 16.01.2020 (Annexure P-2) passed by the Central Administrative Tribunal rejecting the Misc. Application preferred by the petitioners, counsel for the petitioners asserts that the petitioners had filed the said application in the light of the fact that the order dated 20.09.2016 (Annexure P-1) was not in consonance with the directions issued by the Tribunal in the Original Application preferred by the petitioners. They had only sought implementation of the statement which was given by the counsel for the respondents during the pendency of the contempt proceedings. He, thus, contends that the impugned orders cannot sustain and deserve to be set aside.

8. On considering the submissions made by the learned counsel for the petitioners, we do not find any ground to interfere with the impugned orders.

9. A perusal of the order dated 01.07.2014 (Annexure P-4) passed by the Central Administrative Tribunal in O.A. No. 828-HR-2013, which was preferred by the petitioners, would make it apparent that no order for regularization of the services of the petitioners was passed. The Tribunal had proceeded to issue directions to the respondents to initiate the process for consideration of the claim of the petitioners for regularization of their

services in the light of the principle settled by the Hon'ble Supreme Court and the other Courts.

10. As is apparent from the said order, the process for consideration was to be initiated, which, admittedly, the respondents did initiate. No doubt the respondents have challenged the said order dated 01.07.2014 by filing CWP No. 1172 of 2016 but mere challenging of the said order would not, in any manner, render the orders, which have been passed by the Tribunal, inoperative unless stayed. The factum that the writ petition was withdrawn vide order dated 25.09.2017 (Annexure P-15) is not in dispute and, therefore, the challenge to the said order or otherwise does not make much of a difference.

11. In any case, irrespective of the fact that the writ petition had been preferred by the respondents, the Central Administrative Tribunal, while considering Contempt Petition No.77 of 2015 which was preferred by the petitioners, proceeded to decide the same vide order dated 20.09.2016 (Annexure P-1). The Tribunal had rightly taken into consideration the order dated 01.07.2014 (Annexure P-4) passed in O.A. No. 828/HR/2013 to come to a conclusion that the directions issued by the Tribunal had been duly complied with by considering the claim of the petitioners for regularization of their services, wherein unfortunately, they were found to be ineligible vide order dated 15.05.2015 read with order dated 18/26.07.2013, which was placed on record with reply/compliance report dated 18.05.2015. The Tribunal has rightly held that the contempt petition has been rendered infructuous and had granted liberty to the petitioners to avail of any remedy available under law qua the orders which had been passed by the respondents.

12. In the light of the said order having been passed on 20.09.2016 (Annexure P-1), there was no occasion on the part of the petitioners to have waited for more than three years before filing Misc. Application No. 60/1888/2019 and that too, on a plea that during the pendency of the contempt petition, a statement was given by the counsel for the respondents for again considering the claim of the petitioners for regularization despite there being orders dated 15.05.2015 and 18/26.07.2013 passed by the respondents. The said application has, therefore, rightly been dismissed by the Central Administrative Tribunal, Chandigarh Bench on 16.01.2020 (Annexure P-2) being misuse of process of law and for wastage of the precious time of the Court.

13. In view of the above, we do not find any ground to interfere with the orders impugned orders passed by the Central Administrative Tribunal dated 20.09.2016 (Annexure P-1) and 16.01.2020 (Annexure P-2) and, therefore, dismiss the present writ petition.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

May 04, 2021
pj

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No