

PETITIONER:
INDIAN AIRPORTS EMPLOYEES UNION

Vs.

RESPONDENT:
RANJAN CHATTERJEE & ANOTHER.

DATE OF JUDGMENT: 02/02/1999

BENCH:
M. JAGANNADHA RAO., & D.P. WADHWA.

JUDGMENT:

M. JAGANNADHA RAO, J.

A Bench of this Court of which one of us (Justice D.P.Wadhwa) was a member disposed of a batch of Civil Appeals on 11.4.1997 giving various directions. The said Appeals were filed against the judgment of the Bombay High Court dated 27.3.1996 in W.P.Nos. 1494/89, 2362/90 and 504/1991. In the matters now before us relating to contempt of Court, we are concerned only with W.P. No.2362 of 1990.

The workmen who were concerned with the said Civil Appeal arising out of W.P. No.2362 of 1990 and who filed the said writ petition were represented by the International Airport Authority Employees Union. As the writ petition was dismissed, the said Union filed the Civil Appeal. This Court allowed the Civil Appeals on 11.4.1997 following the judgment in AIR INDIA Statutory Corporation Etc. vs. United Labour Union & Others [1996 (9) SCALE 70] and held that "consequent upon the abolition of the contract labour system with effect from 9.12.1976, the appellants were entitled, in the light of the above judgment in AIR INDIA case, to be regularised w.e.f. the date of judgment of the High Court (i.e. 27.3.1996) as held in Masih Charan & Others vs. Union of India & Others in Writ Petition(Civil) No.219 of 1993 dated 10.3.1997."

In the cases argued before us, arguments were confined to 6 workmen, Elizabeth D'Souza, Nagubai Kurade, Shoba Babu Gurav, Laxmi Babu Mirikar, Dwarkabai Arke and Vishravathi Waghmare, who were said to be working as sweepers in the Car Parking area of the Bombay International Airport at the time the notification abolishing contract labour came into effect on 9.12.1976. They claim that inasmuch as the benefit given to them by the Supreme Court in its judgment above-mentioned, has not been granted, the respondents have committed Civil Contempt.

According to the learned senior counsel for

the petitioners, Ms. Indira Jaising, the respondents were obliged to regularise the services of these six sweepers by way of absorbing them as employees of the Corporation and as the same was not done, there is clear contempt of the orders of this Court dated 11.4.1997 in the Civil Appeal. It was pointed out that the names of these six employees were shown in the annexure to the writ petition No.2362 of 1990 filed in the High Court. There was no reason as to why these six sweepers were not regularised.

On the other hand, according to the learned senior counsel for the respondents Sri. R.Sundaravardan, the matter turns upon an interpretation of the notification of the Central Government dated 9.12.1976, as to whether these six sweepers can be said to be among those 'sweeping, cleaning, dusting and watching the buildings owned or occupied by establishment" and also on the interpretation of the judgment in the Civil Appeals dated 11.4.1997. It is argued that these six employees, if they were engaged by a licensee of the respondent, employed in connection with "Management of Car Parks" then these sweepers would not come within the purview of the notification nor within the scope of the judgment of this Court. Any bonafide action on the part of the respondents based on an interpretation of the notification and judgment of this Court, it is argued, will not amount to breach of the orders of this Court. It is also stated that if, indeed, this Court declares in appropriate proceedings that these six sweepers are also to be absorbed and regularised, the respondents have no objection to do so.

The point for consideration is: whether the respondents can be said to have committed contempt of the orders of this Court in Civil Appeal Nos. 2987-89 of 1997 dated 11.4.1997?

It is well settled that disobedience of orders of Court, in order to amount to 'Civil Contempt' under section 2(b) of the Contempt of Courts' Act, 1971 must be 'wilful' and proof of mere disobedience is not sufficient. [S.S.Roy vs. State of Orissa & Others AIR 1960 SC 190]. Where there is no deliberate flouting of the orders of the Court but a mere misinterpretation of the executive instructions, it would not be a case of Civil Contempt [Ashok Kumar Singh & Others vs. State of Bihar & Others AIR 1992 SC 407].

In this contempt case, we do not propose to decide whether these six sweepers do fall within the scope of the notification dated 9.12.1976 or the judgment of this Court dated 11.4.1997. That is a question to be decided in appropriate proceedings.

It is true that these six sweepers' names are shown in the annexure to the W.P. No.2362 of 1990 in the High Court. But, the question is whether there is wilful disobedience to the orders of this Court. In the counter affidavit of the

respondents, it is stated that there is no specific direction in the judgment of this Court for absorption of these sweepers, if any, working in the Car Park area, and that the directions given in the judgment were in relation to the sweeper working at the 'International Airport, National Airport Cargo Complex and Import Warehouse'. It is stated that the cleaners employed by the licensee in charge of Maintenance of the Car Park area do not, on a proper interpretation of the order, come within the sweep of these directions. It is contended that even assuming that they were included in the category of sweepers working at the 'International Airport', inasmuch as they were not employed for the purpose of cleaning, dusting and watching the buildings, as mentioned in the notification abolishing contract labour, they were not covered by the judgment. It is also contended that the case of such sweepers at the Car Park area was not even referred to the Advisory Board under section 10 of the Contract Labour (Prohibition) Act and it was highly doubtful if they were covered by the notification.

On the otherhand, learned senior counsel for the petitioners contended that, going by the map of the Airport, it was clear that these sweepers at the Car Park area were clearly covered by the notification and the judgment. The fact that the names of these six employees were shown in the annexures to the writ petition was proof that they were covered by the judgment. The licensee is in the position of a contractor.

In our view, these rival contentions involve an interpretation of the order of this Court, the notification and other relevant documents. We are not deciding in this contempt case whether the interpretation put forward by the respondents or the petitioners is correct. That question has to be decided in appropriate proceedings. For the purpose of this contempt case, it is sufficient to say that the non-absorption of these six sweepers was bonafide and was based on an interpretation of the above orders and notification etc. and cannot be said to amount to 'wilful disobedience' of the orders of this Court.

The contempt case is dismissed without costs and without expressing any opinion on the right of the petitioners to seek regularisation. It is open to the petitioners to resort to appropriate remedies in accordance with law.