

Before S. S. Sodhi and N. K. Kapoor, JJ.

COURT ON ITS OWN MOTION,—*Petitioner.*

versus

JASWANT SINGH AND OTHERS,—*Respondents.*

Criminal Original Contempt Petition 3 of 1991.

18th April, 1991.

Contempt of Courts Act, 1971—S. 12—Respondents filing writ petition in High Court claiming themselves to be linemen with P.S.E.B.—Orders of status quo obtained on wrong averments—Transfer order and relieving order found to be forged on enquiry—Deliberate attempt to mislead Court—Apology not accepted—Respondents guilty of contempt.

Held, that the conduct of the respondents shows that they have scant regard for truth, rather at practically every step, their stand has been marked by falsehood and deliberate attempts to mislead the Court into granting them relief which, they were clearly not entitled to. Had they succeeded in their design, grave miscarriage of justice would have been the inevitable consequence. Abuse of the process of the Court is thus writ large. In all probability, there were some officials of the Board too involved in this devious and deceitful exercise that enabled the respondents to obtain appointments in this fashion. This would, however, be a matter for the Board and now the Police too, to investigate and take appropriate action. Here, we are concerned with the role and conduct of the respondents, which cannot but invite strong condemnation. A serious view is indeed called for. (Para 16)

Held, that considering the totality of the circumstances of the case and the manner in which this apology has been tendered, it clearly does not deserve to be accepted. Conspicuous in this apology is the omission of any attempt on the part of the respondents even at this late stage to take to the path of truth and or show some repentance for the obvious falsehood upon which their acts and reply are founded. We are, consequently constrained to reject their apology. (Para 18)

Treated as Cr. O.C.P. No. 3 of 1991 taken up,—vide proceedings to issue show-cause notice by this Court on its own motion,—vide order dated 16th November, 1990, passed by Hon'ble Mr. Justice show-cause why proceedings be not taken against them under the S. S. Sodhi in COCP No. 434 of 1990, issuing to the Petitioners to Contempt of Court's Act. Let notice be issued to the petitioners

for December 14, 1990 with the specific direction that they be present in Court, in person, on that date.

H. S. Gill, Advocate, for the Petitioners.

Surjit Singh, Jaswant Singh and Gurmail Singh with their counsel H. V. Rai, Advocate.

D. S. Brar, Advocate (with S. S. Brar, Advocate), for the P.S.E.B., for the Respondents.

JUDGMENT

S. S. Sodhi, J.

(1) A blatant attempt to procure miscarriage of justice by falsehood and dishonest concealment of facts is what marks the matter here.

(2) In February, 1990, the present respondents—Jaswant Singh, Surjit Singh and Gurmail Singh, claiming to be linemen with the Punjab State Electricity Board, Malout (hereinafter referred to as 'the Board'), filed C.W.P. 2148 of 1990 seeking a writ of *mandamus* for regularization of their services on the ground that they were in service and had been in continuous employment for over 240 days. This writ petition was disposed of by the Division Bench on February 21, 1990 by an *ex parte* order which reads as under:—

“Present : Mr. Ravinder Chopra, Advocate for the petitioners. The petitioners are seeking regularization of their services in view of Piara Singh’s case [1988 (4) S.L.R. 739] without making any representation. They may make a representation to the authority who will pass appropriate order on the same within six months thereof. *Status qua* regarding service to continue, from the date of representation. The writ petition is disposed of accordingly.

February 21, 1990.

(Sd) J. V. Gupta,
Acting Chief Justice
(Sd) M. S. Liberhan,
Judge.

(3) According to the respondents, they, thereafter submitted a representation, by post, to Shri R. S. Dhillon, Executive Engineer of

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the Board on February 25, 1990, on receipt of which instead of regularization, their services were terminated and they were consequently not allowed to resume duty after March 5, 1990. It was on these averments that the respondents filed a Contempt Petition (C.O.C.P. 434 of 1990) under Section 10 of the Contempt of Courts Act, 1970 against Shri Mukhtiar Singh Grewal, Superintending Engineer of the Board, Bhatinda Circle and Shri R. S. Dhillon, Executive Engineer, Malout alleging that they had violated the order passed by this Court in C.W.P. 2148 of 1990 and prayed that they accordingly be punished under the Contempt of Courts Act.

(4) When the Contempt Petition came up for hearing, the Superintending Engineer Shri Mukhtiar Singh Grewal was ordered to be deleted from the array of respondents while notice was ordered to be issued to the Executive Engineer Shri R. S. Dhillon.

(5) A totally different picture was painted, in the return filed by the Executive Engineer Shri R. S. Dhillon. It was stated there that the present respondents had fabricated and forged transfer orders bearing the date March 17, 1989, purporting to have been issued and signed by the Superintending Engineer, Punjab State Electricity Board, Patiala transferring them to Malout. Relieving orders purporting to have been issued and signed by the Executive Engineer under whom they were alleged to have been working were also fabricated. It was by procuring these forged documents that the respondents had managed to enter service as Linemen under the Board. It was further stated that many persons appear to have entered into service of the Board by such deceitful means, and on enquiry, the transfer orders and relieving orders were discovered to have been forged. The respondents then absented themselves from duty apprehending arrest in a criminal case. The matter was reported to the higher authorities and an enquiry was conducted by the Vigilance Wing of the Board. The report of the Deputy Inspector General of Police of April 17, 1990, in support was also enclosed.

(6) It was further mentioned in the return that first information report 77 of July 20, 1990 had also been registered against the respondents at Police Station 'City' Malout.

(7) Mr. Ravinder Chopra, counsel for the respondents, without in any manner seeking to controvert the allegations against the respondents, in the return filed by the Executive Engineer Shri R. S.

Dhillon had the audacity to seek to contend that, in these contempt proceedings, the Court could not take note of them and had to confine itself merely to seeing, whether or not, the order passed by this Court on February 21, 1990 that *status quo* regarding service of the respondents should continue until their representation was decided, had been complied with. On the face of it, this was clearly a wholly untenable, rather a perverse stand. On this being pointed out Mr. Ravinder Chopra sought an adjournment to obtain instructions whether to file an affidavit to controvert the allegations made against the respondents or to withdraw the petition.

(8) When the matter came up for hearing on the adjourned date, Mr. Ravinder Chopra, counsel for the respondents stated that after he had explained the proceedings that took place in Court on the last date of hearing, the respondents took away their brief and engaged another counsel from Patiala, who had promised to appear in Court, but had not turned up. He consequently sought another adjournment to contact this counsel. No other counsel, however, appeared even on the subsequent date and when the matter next came up for hearing, Mr. Ravinder Chopra had nothing further to add. It was in these circumstances that the opinion was recorded that there was *prima facie* a deliberate attempt on the part of the respondents to procure an abuse of the process of the court by seeking to use the provisions of the Contempt of Courts Act to enforce compliance of the orders of appointment, which appear to have been obtained by fraud and forgery. The rule against the Executive Engineer Shri R. S. Dhillon was accordingly discharged and Rs. 1,000 each were imposed as costs upon the respondents. Notice was then ordered to be issued to the respondents to show cause why proceedings be not taken against them under the Contempt of Courts Act.

(9) In their reply to the notice served upon them, the respondents denied having procured service under the Board on the basis of any forged or fabricated documents or that they had ever absented themselves from duty. To put it in their own words, the stand taken by them was as under:—

“The said respondents proclaimed in the nearby villages where their offices are locate that there were some vacancies in the Board of P.S.E.B. for the post of linemen and many others and interested persons could apply and to contact in their offices personally. Against the said proclamation which

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was delivered through messengers and employees which are identifiable if they appear before the replying respondents or are brought before them. A number of candidates including the replying respondents appeared in the offices of the respondents. Many candidates were recruited by them. Many of them were directed including the replying respondents that they are to get their salary from the Bank directly. For the first six months, they are to be paid half of its amount and the remaining amount they are to deposit with the respondents at their offices. The intention of the said respondent was dishonest fraudulent which was later on surfaced out when the replying respondent could know that they had been victims of the said act of the respondents and many many other persons also.....”

(10) As disputed questions of facts thus arose, the matter was sent to the District and Sessions Judge (Vigilance) Haryana for enquiry and report.

(11) After affording due opportunity to the parties to adduce evidence and for being heard, the District and Sessions Judge (Vigilance), Haryana, in his report of March 6, 1991 concluded:—

“—it is proved that the petitioners knew at the time of filing civil writ petition 2148 of 1990 that their appointments were under some bogus orders. They were not in service at the time of filing of writ petition and they had not been given salary for the period of 3 or 4 months prior to the filing of writ petition. Through the writ petition they gave an impression that they had been recruited on regular basis and had been continuing in service at the time of filing the writ petition which was contrary to the facts found above. It is further established that they had got entry into service on the basis of forged transfer orders Ex. R/1 and forged relieving chits i.e. Ex. R/8 to Ex. R/10. There is no escape from holding that there was connivance of the officials of the Department. Further investigation in F.I.R. 77 of 20th August, 1990 will reveal as to who they are.”

(12) It was also the finding of the District and Sessions Judge (Vigilance) Haryana that the respondents had misled this Court in

C.W.P. 2148 of 1990 and had obtained an order in their favour on the basis of wrong averments which they knew to be false.

(13) The picture that emerges is of falsehood compounded by further falsehood. All the respondents here are educated persons who knew that the essential qualification for a Lineman was a Certificate (Electrician) from an Industrial Training Institute. None of them possessed this qualification or any qualification in any Electrical Course.

(14) Further, on the respondents' own showing, there was no notice or advertisement published regarding appointments to any post. They did not appear for interview before any authority constituted under the Board, nor were they issued any appointment letters and what is more, they say, they were required to deposit half their salary with the officials of the Board. These circumstances clearly suffice, by themselves to bring out the dishonest intent on the part of the respondents, obviously with the connivance also of some other officials of the Board, to procure their appointment on the basis of forged and fictitious documents.

(15) Next, it will be recalled that the stand taken by the respondents in their writ petition, 2148 of 1990 was that they were in service on the date of the filing of the writ petition. Similarly, in the Contempt Petition, filed by them, it was asserted that they continued in service till March 4, 1990. This is, however, falsified by their own statements, on oath, made in these proceedings. According to the statements made by them before the District and Sessions Judge (Vigilance), Gurmail Singh remained on the rolls till August 1989; Surjit Singh for about 7 months after March 28, 1989 and Jaswant Singh till October 31, 1989.

(16) Such being the circumstances and the conduct of the respondents, there can be no escape from the conclusion that they have scant regard for truth, rather at practically every step, their stand has been marked by falsehood and deliberate attempts to mislead the Court into granting them relief which they were clearly not entitled to. Had they succeeded in their design, grave miscarriage of justice would have been the inevitable consequence. Abuse of the process of the Court is thus writ large. In all probability, there were some officials of the Board too involved in this devious and deceitful exercise that enabled the respondents to obtain appointments in this

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fashion. This would, however, be a matter for the Board and now the Police too, to investigate and take appropriate action. Here, we are concerned with the role and conduct of the respondent, which, cannot but invite strong condemnation. A serious view is indeed called for.

(17) Before concluding, it deserves mention that in their return, the respondents, after setting-forth their defence, which, as shown earlier, was not only false, but must also be held to be false to their knowledge, they also, in the alternative offered an apology, by saying, “—in any other condition, if this Hon’ble Court deems, the replying respondents guilty of any act of contempt, the replying respondents tender an unconditional apology with a request to consider the appended reply on their behalf against the counter-allegations made by the respondents against them in Civil Contempt Petition 434 of 1990”.

(18) Considering the totality of the circumstances of the case and the manner in which this apology has been tendered, it clearly does not deserve to be accepted. Conspicuous in this apology is the omission of any attempt on the part of the respondents even at this late stage to take to the path of truth and or show some repentance for the obvious falsehood upon which their acts and reply are founded. We are, consequently constrained to reject their apology.

(19) The respondents-Jaswant Singh, Surjit Singh and Gurmail Singh are hereby held guilty and sentenced to three months’ Simple Imprisonment and a fine of Rs. 2,000 each, in default of payment of which, they shall undergo further Simple Imprisonment for one month under Section 12 of the Contempt of Courts Act, 1971.

ORDER

On the oral request of the counsel for the respondents, the sentence of imprisonment and fine is suspended till May 5, 1991 subject to the respondents furnishing surety bonds in the sum of Rs. 10,000 with one surety each to the satisfaction of the Registrar of this Court, to submit, for undergoing the sentence of imprisonment imposed upon them on May 6, 1991, unless the sentence is suspended, modified or set aside by the Supreme Court.

P.C.G.