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HIGH COURT OF CHHATTISGARH, BILASPUR

CONTEMPT CASE (CIVIL) NO. 513 OF 2015

1. Pankaj Kumar Das S/o Shri Palak Dhari Das, aged about 36 years R/o Qr. No. 490/2, New Loco Colony, P. S. Sirgitty, Bilaspur, District Bilaspur (C.G.)
2. Girish Kumar Kumbhkar S/o Shri M. L. Kumbhkar, aged about 41 years, R/o Construction Colony, 36/2, Tarbahar, Bilaspur, District Bilaspur (C.G.)
3. Dinesh Kumar Rathore S/o Shri Prabhu Ram Rathore, aged about 34 years R/o Qr. No. W/04, Royal Town, In front of Gulab Nagar, Mopka, Bilaspur, District Bilaspur (C.G.)
4. Kanhai Singh S/o Late Shri Anand Ram, aged about 40 years, R/o Behind Mata Choura, Devnagar, Birkona, Koni, Bilaspur, District Bilaspur (C.G.)
5. Lileshwar Ram, aged about 39 years, S/o Shri Lakhandas Sahu, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Engineering Colony, Raipur, District Raipur (C.G.)
6. Bhupendra Pratap Singh, aged about 37 years, S/o Shri U. S. Singh, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony Bilaspur, District Bilaspur (C.G.)
7. Swami S/o Shri Kondai, aged about 37 years, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, PHO, Motibag, District Nagpur (M.S.)
8. K. Krishna Rao, aged about 47 years, S/o Shri K. Sanyasi Rao, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony Bilaspur, District Bilaspur (C.G.)
9. Manoj Kumar Tiwari, aged about 38 years, S/o Shri Vijay Kumar Tiwari, working as Technician - I Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony Bilaspur, District Bilaspur (C.G.)
10. Balaji Dalai, aged about 37 years, S/o Shri Saheb Dalai, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony Bilaspur, District Bilaspur (C.G.)
11. Mithlesh Kumar Verma, aged about 40 years, S/o Shri Firangilal Verma, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony Bilaspur, District Bilaspur (C.G.)
12. Mohd. Fareed, aged about 43 years, S/o Mohd. Gani, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Engineering Colony, Raipur, District Raipur (C.G.)
13. Shanker Dayal Tiwari, aged about 35 years, S/o Shri B. Ramanand Tiwari, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C. Railway, Engineering Colony, Raipur District Raipur (C.G.)

14. Ramesh Kumar Mane, aged about 40 years, S/o Shri M. M. Mane, working as Technician - I, Under Sr. Section Engineer (T M) S. E. C Railway, P H O, Motibag, District Nagpur (M.S.)
15. Siddharth Kumar, aged about 37 years, S/o Shri Tilak Ram Sahu, working as Technician - I Under Sr. Section Engineer (T M) S. E. C. Railway, Engineering Colony, Raipur District Raipur (C.G.)
16. Umapati, aged about 42 years, S/o Shri D. Dappalawami, working as Technician - I Under Sr. Section Engineer (T M) S. E. C. Railway, Engineering Colony, Raipur District Raipur (C.G.)
17. Arun Kumar Kaiwarty, aged about 40 years, S/o Shri Ramnath, working as Technician - I Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony, Bilaspur, District Bilaspur (C.G.)
18. Sahettar Bhatnagar, aged about 43 years, S/o Shri Kuswa, working as Technician - I Under Sr. Section Engineer (T M) S. E. C. Railway, Barah Kholi, Railway Colony, Bilaspur, District Bilaspur (C.G.)

... **Petitioners**

Versus

1. Shri Satyendra Kumar General Manager, South Eastern Central Railway, Bilaspur Zone, Headquarters Office, Bilaspur 495004 (C.G.)
2. Shri P. C. Nayak, Chief Personnel Officer, S. E. C. Railway, Headquarters Office, Personnel Department, Bilaspur 495004 (C.G.)
3. Shri Vedpal, Principal Chief Engineer, S. E. C. Railway, Headquarters Office, Bilaspur 495004 (C.G.)
4. Shri R. V. Apotikar, Deputy Chief Personnel Officer, S. E. C. Railway, Headquarters Office, Personnel Department, Bilaspur 495004 (C.G.)

... **Respondents**

For Petitioners	:	Mr. Prafull Bharat and Mr. Jitendra Pali, Advocates.
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Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

26/11/2015

1. The present application has been filed alleging disobedience of order and directions dated 4.8.2015 in Writ Petition (S) No. 6589 of 2014.
2. Shri Bharat, learned Counsel for the Petitioners, submits that in Original Application Nos. 1042 of 2012 and 1043 of 2012 filed by the

aggrieved before the Tribunal, the controversy was limited to the manner in which 30 marks under the heading “record of service” were to be awarded. The written examination held for filling up 19 vacancies of Junior Engineer (Track Machine) (hereinafter referred to as 'JETM') against the 25% quota from intermediate apprentices was not in dispute. The manner in which 30 marks was to be assessed as directed by the Tribunal, was essentially upheld by this Court though with certain modifications. Instead of complying with the directions of the Court, the authorities have wrongly opined to conduct the entire selection procedure afresh including the written test. The authorities were bound to proceed only in the manner directed with regard to award of 30 marks and annulment of the entire selection process itself amounts to disobedience and flouting of the order and directions of the Court.

3. We have considered the submissions on behalf of the parties.

4. A contempt application would lie for deliberate and willful disobedience of an order or direction given to act in a particular manner. The failure to act accordingly may not also automatically invite the contempt jurisdiction if there is a valid reason or justification for non-compliance. Furthermore, the correctness of a subsequent order cannot be examined in the contempt jurisdiction by giving fresh or further directions.

5. The grievance of the Petitioners now primarily is that there is no justification to hold the written examination afresh if the illegality in the selection process was to be found only at the latter stage. We would not like to make any observation on merits with regard to the same as we are satisfied that the enquiry is beyond the scope of contempt jurisdiction. In the facts and circumstances of the case, the decision to

hold the selection process afresh including the written examination cannot be examined in the contempt jurisdiction or be classified as a deliberate or willful defiance. We are therefore not inclined to proceed in the contempt jurisdiction given the constraints of the same.

6. If the Petitioners are aggrieved by the impugned order dated 4.11.2015 opining to hold the entire selection process including the written examination afresh, it is for them to pursue remedies appropriately in accordance with law.

7. Our reluctance to entertain this contempt application cannot be construed as any opinion or observation in any manner with regard to the correctness of the decision of the Respondents to conduct the entire selection process including the written examination afresh and which naturally will have to be examined by the appropriate forum which the Petitioners may be advised.

8. The contempt petition is disposed with the aforesaid observations.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge