

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

Con.Case(C).No. 120 of 2015 (S) IN WP(C).27581/2014

AGAINST THE JUDGMENT IN WP(C) 27581/2014 of HIGH COURT OF KERALA
DATED 24-11-2014

PETITIONER/PETITIONER IN WPC :

SIBI CHANDRAN P.C., AGED 35 YEARS,
S/O. P.P.CHANDRASEKHARAN, CONDUCTOR GRADE-II,
KERALA STATE ROAD TRANSPORT CORPORATION DEPOT,
PALAKKAD-678 010, RESIDING AT PAZHUKUNNATHU HOUSE,
22/95, NAIDU COLONY, KUNNATHURMEDU POST,
PALAKKAD-678 035.

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENTS/RESPONDENTS :

1. SHRI.BABU N.JOSEPH,
AGE AND FATHER'S NAME IS NOT KNOWN TO THE PETITIONER,
THE DISTRICT TRANSPORT OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
PALAKKAD DEPOT, PALAKKAD-678 001.
2. SHRI. SREEKUMAR,
AGE AND FATHER'S NAME IS NOW KNOWN TO THE PETITIONER,
THE ADMINISTRATIVE OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
PALAKKAD DEPOT, PALAKKAD-678 001.

R BY SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 02-06-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S ANNEXURES:

- ANNEXURE A : A COPY OF THE JUDGMENT DATED 24.11.2014 IN W.P.(C) NO. 27581 OF 2014.
- ANNEXURE B : TRUE COPY OF THE DUE DRAWN STATEMENT PRODUCED BY THE PETITIONER TO THE RESPONDENTS.
- ANNEXURE C : A STATEMENT SHOWING THE ENTITLEMENT OF BACK WAGES FROM 12/2011 TO 6/2014 SHOWING BREAK UP OF PAY, DA, HRA, WSHING ALLOWANCE AND ALSO ACTUAL DUE AND DRAWN.
- ANNEXURE D : TRUE PHOTOGRAPH OF THE PETITIONER.
- ANNEXURE E : TRUE COPY OF THE CERTIFICATE ISSUED BY AIMS, EDAPPALLY DATED 11.01.2011.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE.

DAMA SESHADRI NAIDU, J.

Contempt Case (C) No. 120 of 2015

in

W.P. (C) No. 27581 of 2014

Dated this the 2nd day of June, 2015.

JUDGMENT

Initially, the petitioner, an empanelled Conductor, who later got his services regularised as Conductor Grade –II with effect from 22.12.2011, approached this Court seeking payment of arrears of pay by filing W.P.(C) No. 27581 of 2014, which, in fact, is a second round litigation on the issue. This Court, eventually, allowed the writ petition with the following directions:

“5. It can be seen that W.P.(C) No. 17235 of 2014 was allowed by this Court as prayed for. At any rate, the direction given on 07.07.2014 in the said writ petition was only an interim direction which stood merged with the final judgment of this Court. More particularly, there is no dispute that all other similarly placed workmen have been paid the arrears of salary from the date of their regularisation i.e., 22.12.2011.

6. In the facts and circumstances, it is imperative that the respondent Corporation pay to the petitioner the arrears of salary for the period between 22.12.2011 and 19.12.2013 expeditiously.

The writ petition is accordingly disposed of with a direction to the respondent Corporation to pay the arrears of pay in the manner indicated above as expeditiously as possible, at any rate within six weeks from the date of receipt of a copy of this judgment.”

2. Subsequently, the petitioner filed the present Contempt Case complaining that though he was paid arrears of salary from 22.12.2011, there have been many discrepancies in quantifying the arrears of salary, as has been demonstrated in Annexure C. Under these circumstances, it is the singular grievance of the petitioner that the judgment of this Court has not been complied with.

3. The learned Standing Counsel for the respondents, in tune with the statement filed in the Contempt Case, has contended that the respondent Corporation has entirely complied with the directions of this Court in Annexure A judgment. In expatiation of her submissions, she has submitted that the Corporation quantified and paid the arrears of salary from the date of the petitioner's regularisation. Though she has made elaborate submissions concerning the dispute of

quantification, she has eventually contended that, if at all the petitioner has any grievance with regard to the quantification of the arrears of salary, the very issue has never fallen for consideration before this Court, especially in the judgment rendered by this Court in W.P.(C) No. 27581 of 2014. According to her, it is entirely open for the petitioner to lay a proper challenge against the issue of quantification in properly constituted proceedings.

4. Joining the issue, the petitioner has also filed a detailed reply concerning the defence placed on record by the respondent Corporation. In fact, the learned counsel for the petitioner has made elaborate submissions in that regard.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent Corporation, apart from perusing the record.

6. Indeed, this Court allowed the writ petition as prayed for through judgment dated 24.11.2014. As could be seen from Annexure C, there is a huge difference in the quantification of

the arrears of salary. Having said that, it is, however, necessary to observe that there is force in the contention of the learned Standing Counsel that the very issue of quantification has not fallen for consideration in Annexure A judgment. It is axiomatic to observe that the scope of contempt jurisdiction is narrow and restricted, inasmuch as it is essentially a technical adjudication. The Court cannot presume any wilful disobedience of an order by way of an inference, unless the violation is patent or at least apparent.

Under these circumstances, having found no ground to proceed further against the respondents in the contempt proceedings, this Court closes the Contempt Case, leaving it open for the petitioner to seek further remedial measures in accordance with law, if desirable.

sd/- DAMA SESHADRI NAIDU, JUDGE.

