

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA
CONTEMPT CASE No.1740 of 2008

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ORDER: (*Per Hon'ble Sri Justice R. Subhash Reddy*)

This Contempt Case, under Sections 10 to 12 of the Contempt of Courts Act, is filed alleging willful disobedience to the order, dated 04.09.2008, in W.A.No.1026 of 2007.

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The petitioner herein was working as an Excavation Plant Operator in Singareni Collieries Company Limited. Since the Company found that the petitioner was not medically fit to perform the duties of an Excavation Plant Operator, he was asked to work as a General Mazdoor on surface. Originally the petitioner was referred to Dr.Sudhir Naik of Osmania General Hospital as there were some problems with regard to his health and the said doctor found that the petitioner was fit to perform his duties as an Excavation Plant Operator and was issued fitness certificate to that effect. Thereafter, on the basis of other material, the Company came to a conclusion that the petitioner was not medically fit to be continued as an Excavation Plant Operator and, therefore, he was terminated from service vide proceedings No.PIOCI/MNG/KG/283 dated 04.02.1997, which was challenged in Writ Petition No.5023 of 1997. By order dated 09.03.2007, a learned Single Judge of this Court has allowed the writ petition by setting

aside the termination proceedings. Aggrieved thereby, the Company preferred Writ Appeal No.1026 of 2007 and a Division Bench of this Court, while confirming the order of the learned Single Judge, allowed the Company to refer the petitioner to its Medical Board for fresh opinion and further permitted them to continue the petitioner in the cadre of General Mazdoor till he is examined by the Medical Board.

In this contempt case, it is the allegation of the petitioner that in spite of the medical report and also the orders of the learned Single Judge in his favour, which were confirmed in the writ appeal, he was continued illegally as General Mazdoor, but not as an Excavation Plant Operator, till his retirement from service.

In the counter affidavit filed on behalf of the respondent Company, while denying all the allegations, it is stated that pursuant to the orders passed by this Court, the petitioner was advised to attend for medical examination by the Medical Board at Main Hospital, Kothagudem on 06.11.2008 and 07.11.2008. It is also stated that the Medical Board met on 07.11.2008 and, after taking into consideration of the report of Cardiologist, opined that it is not possible for the management to continue the petitioner as an Excavation Plant Operator as he is not fit for the said job.

Though it is contended by learned counsel for the petitioner that the post of General Mazdoor is inferior to the

post of Excavation Plant Operator and the petitioner is entitled for pay protection and also upgradation in the cadre of General Mazdoor as per the Rules, which are stated to be denied to him in spite of completing required minimum service, all these aspects cannot be gone into in this contempt case. It is not in dispute that while considering the matter in the writ appeal, this Court permitted the Company to refer the petitioner to the Medical Board for fresh opinion and, accordingly, the petitioner was referred to the Medical Board and subjected to medical examination on 07.11.2008 and, after examination, the Medical Board opined that the petitioner is unfit for holding the job of Excavation Plant Operator and the same was communicated in the order in Ref.No.MNG/PER/21(a)/1696, dated 07.07.2009, which was served on the petitioner on 08.07.2009.

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If the petitioner is aggrieved by the order dated 07.07.2009, he could have questioned the same, but in view of the steps taken by the Company by referring the petitioner to the Medical Board, it cannot be said that there is willful violation of the directions issued by this Court. As much as the contention regarding the pay protection and upgradation was not the subject matter in the writ appeal, the same cannot be gone into in this contempt case. In these circumstances, we hold that there is no violation of the orders of this Court.

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Accordingly, the contempt case is dismissed.
However, we permit the petitioner to make a fresh
representation with regard to pay protection and
upgradation, which he claims to have entitled during the
course of his employment, within a period of four weeks
from the date of receipt of this order. If such representation
is filed, we are sure that the same shall be considered
immediately, on its own merits, without wasting further time,
inasmuch as the petitioner has already retired from service.

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As a sequel, pending miscellaneous petitions, if any,
shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA