

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

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Contempt Case No.1932 of 2014

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

This contempt case is filed alleging violation of the orders passed by Division Bench of this Court in W.A.No.2361 of 2003 dated 24.12.2013.

The petitioners in this contempt case filed W.P.No.25133 of 1997 seeking a direction from this Court (i) to declare the action of the respondents in not promoting the petitioners as Junior Engineers (E-I Grade) from the dates on which they became eligible to be promoted to the said post as illegal, arbitrary and unsustainable in law; and (ii) to direct the respondents to promote the petitioners as Junior Engineers (E-I Grade) from the dates on which they became eligible to be promoted to the said posts and grant all consequential benefits thereof. The writ petition was dismissed by order dated 14.10.2003. Aggrieved thereby, the petitioners herein filed W.A.No.2361 of 2003. The Division Bench of this Court, by its order dated 24.12.2013, allowed the writ appeal, set aside the order of the learned Single Judge in W.P.No.25133 of 1997 dated 14.10.2003, and, consequently, the respondents herein were directed to consider the case of the petitioners herein for promotion on a time bound scheme, subject to other eligibility criteria to be fulfilled, save the issue of availability of vacancies. On the ground that the respondents had not implemented the orders passed by this Court, in W.A.No.2361 of 2003 dated 24.12.2003, the petitioners have filed the present contempt case. During the pendency of the contempt case, the respondents effected promotions, under the time bound scheme, and have promoted the petitioners herein.

Sri Abhinand Kumar Shavili, learned counsel for the petitioners would contend that, while the petitioners have since been promoted, they have not been paid the arrears of pay in accordance with the order of the Division Bench in

W.A.No.2361 of 2003 dated 24.12.2003. Learned counsel would draw attention of this Court to the scheme of promotion, for technical staff in the civil engineering department, to contend that promotion from one grade to another, on completion of five years of service, is automatic. He would also draw attention of this Court to the letter dated 02.02.1991, addressed by the Chief Engineer (Civil) to the General Manager (Personnel) of the respondent-company, stating that because of the nature of the work of Draughtsman (Assistant Draughtsman/Draughtsman/Senior Draughtsman) and Field Staff (Sub-Overseer/Overseer/Supervisor), irrespective of the Grade in which the Draughtsman Field Staff were working, the nature of the work was the same. Learned counsel would submit that since the nature of the work, which the petitioners were discharging earlier, is identical to the nature of work which they are required to discharge on their promotion to the higher post, denial of arrears of pay and other monetary benefits is in violation of the order passed by the Division Bench of this Court.

Sri D.Prakash Reddy, learned senior counsel appearing on behalf of the respondents, would submit that while the petitioners had, both in the writ petition and in the writ appeal, sought a consequential direction for payment of monetary benefits, no such direction was issued by the Division Bench; the respondents have complied with the order of the Division Bench and have effected promotion; and, in the absence of any direction to pay the petitioners arrears of salary and other monetary benefits, the respondents cannot be said to have violated the order of the Division Bench in W.A.No.2361 of 2003 dated 24.12.2013 merely because they have not paid the petitioners arrears of salary and other monetary benefits.

In its order in W.A.No.2361 of 2003 dated 24.12.2013, the Division Bench took note of the office note/circular dated 02.02.1991. It did not, however, consider its scope or hold that, in terms of the said Circular dated 02.02.1991, the petitioners should be extended the benefit of arrears of salary

and other monetary benefits consequent on their promotion. The Division Bench merely directed the respondents to consider the case of the petitioners for promotion on a time bound scheme subject to other eligibility criteria being fulfilled, save the issue of availability of vacancies. The order of the Division Bench required the respondents to consider the case of such of those petitioners, for promotion, who fulfilled the eligibility criteria prescribed for such promotion. The respondent-company was, however, disabled from denying promotion to the petitioners on the ground of lack of availability of vacancies.

While the Writ Appeal was no doubt allowed, the order of the Division Bench must be understood in the light of the directions issued in the preceding paragraph of the order which is to direct the respondents to consider the case of the appellants for promotion under a time bound scheme. Neither was the writ appeal allowed as prayed for, nor has any direction been issued to the respondents to extend the petitioners the benefit of payment of arrears of salary and other monetary benefits in the promotional post.

The jurisdiction, which this Court exercises under the Contempt of Courts Act, is *quasi-criminal* in nature and, save where wilful and deliberate violation of the order is made out beyond reasonable doubt, no interference is called for. In the absence of a direction by the Division Bench to extend the petitioners the benefit of arrears of pay and other monetary benefits, the respondents cannot be said to have violated the orders passed by the Division Bench in W.A.No.2361 of 2003 much less willfully and deliberately. We see no reason, therefore, to proceed to take action against the respondents under the Contempt of Courts Act. It is made clear that no opinion has been expressed by us on the petitioners entitlement or otherwise to arrears of pay and other monetary benefits as these are matters for examination in appropriate legal proceedings, if any, to be instituted by the petitioners herein.

The contempt case fails and is, accordingly dismissed. Miscellaneous petitions pending, if any, shall also stand

disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

11th February 2015.
JSU

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Date: 11.02.2015

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