

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No. 124 of 2015

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ORDER:- (per Hon'ble Sri Justice G. Chandraiah)

This contempt case is filed alleging that the respondents have not complied with the orders of this Court in WP No.31648 of 2010, dated 21.10.2013.

2. The petitioner was an employee in the 2nd respondent-organization. The 2nd respondent issued a charge memo under the Central Civil Services (Conduct) Rules, 1964, to the petitioner on the ground that the petitioner filed an Insolvency Petition having become indebted to various persons and such an act constitutes misconduct under the Rules. The petitioner submitted his reply to the charge memo and also filed O.A.No.712 of 2005 before the Central Administrative Tribunal challenging the issuance of charge memo. Disciplinary proceedings in the department have taken its course culminating in imposition of "Compulsory Retirement" punishment on the petitioner, by order dated 21.11.2005. His appeal to the 1st respondent was rejected by order dated 31.01.2007. The petitioner withdrew the earlier O.A., and instituted a fresh O.A.No.303 of 2009 taking the plea that the punishment of Compulsory Retirement was unduly harsh. On

contest, the Tribunal, vide order dated 06.10.2010, set aside the punishment and remanded the matter back to the 2nd respondent for reconsidering the punishment. Questioning the orders of the Tribunal, the respondents filed W.P.No.31648 of 2010 before this Court. This Court by orders dated 21.10.2013 dismissed the writ petition. As no action was forthcoming from the respondents with regard to reconsideration of punishment, the petitioner filed Contempt Petition No.2 of 2014 before the Tribunal, subsequent to which the 2nd respondent passed orders on 27.02.2014 confirming the punishment of Compulsory Retirement and stating that the orders have been complied with. The Tribunal closed the contempt case by recording compliance. Alleging that the respondents have not implemented the orders of this Court in W.P.No.31648 of 2010, dated 21.10.2013, the petitioner is before us with this contempt case.

3. Learned counsel for the petitioner vehemently contends that both the Tribunal as well as this Court have held that the punishment of Compulsory Retirement imposed on the petitioner is disproportionate. He submits that the very fact of remanding the matter back to the respondents is by itself a direction to the respondents to alter the punishment from that of Compulsory Retirement to the one of a lesser degree. He further submits that the respondents, instead of altering the punishment, have once again passed the same order imposing the very same punishment on the petitioner and hence the respondents have not implemented the orders of

this Court, insofar as reconsideration of the punishment is concerned, and thereby they have committed contempt of Court.

4. We have heard the learned counsel for the petitioner and perused the material available on record.

5. A perusal of the order passed by the 2nd respondent, dated 27.02.2014, would show that the 2nd respondent has made a reference with regard to O.A.No.303 of 2009 before the Tribunal as well as to the Common Judgment dated 21.10.2013 passed by this Court in W.P.Nos.31648 of 2010 and 36244 of 2012; and further the 2nd respondent has recorded that *in pursuance of the Common Judgment, he is required to reconsider the penalty of Compulsory Retirement* imposed upon the petitioner; and that on reviewing the case in its entirety and evaluating the evidence available on file, he had no ground meriting review of the punishment. It was further observed that in case the petitioner is aggrieved of the order dated 27.02.2014, he is at liberty to file appeal before the appellate authority under Rule 23 of the CCS (CCA) Rules, 1965, as applicable to Council Employees. Inasmuch as the order dated 27.02.2014 came to be passed after taking into consideration the Common Order of this Court in W.P.No.31648 of 2010 and 36244 of 2010, dated 21.10.2013, the contention of the learned counsel for the petitioner that the order of this Court has not been complied with cannot be accepted. Hence, we see no reason to initiate contempt proceedings against the respondents.

5. The contempt case is, accordingly, dismissed. It is needless to mention that it is open to the petitioner to challenge the order dated 27.02.2014 by availing the remedies available to him as per Rules and in accordance with law. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

14th August, 2015

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