

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

CONTEMPT CASE No. 835 of 2012

AND

WVMP No. 2423 of 2012

IN

WP No. 20903 of 2009

COMMON ORDER:

The Contempt Case is filed alleging that the respondents have disobeyed the interim orders dated 15.03.2011 passed by this Court in WPMP No.27207 of 2009 in WP No.20903 of 2009. On the contrary, the respondents filed WVMP No.2423 of 2012 seeking to vacate the said interim orders passed in WPMP No.27207 of 2009. The interim direction dated 15.03.2011 being the common issue, both the contempt case as well as the vacate petition are taken up for disposal in one go.

2. Before delving into the merits of these petitions, it would be appropriate to briefly look at the facts of the case:

The writ petitioner who was a Driver with the respondent-RTC, suffered eye injury while performing his duty on 06.10.2008 from Kanapur to Armoor, due to falling of a husk particle into his left eye. After completing the trip, he went to APSRTC Hospital but his eye problem could not be rectified. Though he was referred to NIMS, Hyderabad, but ultimately he was sent to APSRTC Hospital, Tarnaka for treatment. Even after taking treatment for some time, as the problem persisted, he consulted LV Prasad Eye Hospital but his eye injury could

not be cured, instead it got worse and he lost his vision of the left eye. It is his case that he was on the Sick List of the APSRTC Hospital, Tarnaka from 15.10.2008 to 26.05.2009, and thereafter the medical authorities of APSRTC Hospital, Tarnaka, opined that the petitioner is unlikely to become fit for Driver duties in A1 category. That being so, the respondent authorities issued a Show Cause notice on 08.07.2009 to the petitioner alleging that he was unauthorisedly absent from duties from 04.05.2009 to 08.07.2009. Later the petitioner was terminated from service vide proceedings dated 17.08.2009. Questioning the legality of termination orders dated 17.08.2009, and alleging that though the respondent authorities were aware of his eye injury and the treatment taken by him in APSRTC Hospital, Tarnaka, they have terminated him from service, the writ petitioner filed the writ petition seeking a direction to the respondents to provide alternative employment to him as envisaged under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, (Act, for short), with all consequential benefits, or in the alternative, he be placed in supernumerary post.

This Court, by orders dated 15.03.2011 issued interim direction to the respondents to consider the case of the petitioner for providing alternative employment, by suspending the impugned order dated 17.08.2009.

It is the grievance of the petitioner that though he made representation to the respondents by enclosing a copy of the interim orders of this Court, the respondents have not acted

upon his representation. It is his further grievance that though he approached the respondents on several occasions, apart from issuing a legal notice on 24.02.2012 calling upon them to implement the interim orders of this Court, the respondents have deliberately chosen not to implement the interim orders of this Court, dated 15.03.2011, thereby the respondents committed contempt of Court.

In the vacate petition, WVMP No.2423 of 2012, the respondent authorities seek to vacate the interim orders dated 15.03.2011, stating that the writ petitioner was terminated from service w.e.f. 17.08.2009 for not submitting inter-sick certificate from APSRTC Hospital, Tarnaka and also for absconding duty from 27.05.2009 to 08.07.2009, as per the guidelines issued vide Cir.No.PD.05/2009 dated 23.02.2009.

3. Heard learned counsel for the writ petitioner as well as learned counsel for the respondents/vacate petitioners and perused the record.

4. This Court issued notice before admission in the contempt case on 20.06.2012 and thereafter on 03.10.2012 admitted the contempt case. On 31.10.2012, the respondents filed counter and the matter was directed to be listed on 14.11.2012. On 14.11.2012, it was represented that a vacate petition has been filed and is coming up and hence the matter was adjourned. On 01.04.2013, this Court directed the Registry to list the vacate petition on 08.04.2013. Later, the matter underwent several adjournments. That is how the contempt case as well as the vacate petition are listed

together.

5. Learned counsel for the writ petitioner submits that though the interim orders were passed on 15.03.2011, the respondents have not complied with the said interim orders inasmuch as the respondents have not provided alternative employment for the writ petitioner, and hence the respondents have committed contempt of Court.

6. Per contra, it is the case of the learned counsel for the respondents/vacate petitioners that the vacate petition was filed on 16.07.2012 but the matter underwent several adjournments. With regard to the allegation that the interim orders were not complied with by the respondents, the learned Standing Counsel submits that the writ petitioner was terminated from service w.e.f 17.08.2009 itself.

7. A perusal of the record shows that the APSRTC Hospital, Tarnaka, issued Sick Intimation Certificate to the writ petitioner wherein it was endorsed that the petitioner is *“unlikely to become fit for Driver in A1 category”*. A copy of the said Sick Intimation Certificate is filed at Page 9 of the material papers and the same is not disputed by the respondents in the vacate petition. The factum of the writ petitioner falling sick due to eye injury and taking treatment in APSRTC Hospital, Tarnaka, and also the factum of the medical authorities opining that the writ petitioner may not be fit for performing driver duties, being not disputed, I deem it appropriate to make the interim direction dated 15.03.2011 in WPMP No.27207 of

2009, absolute. Accordingly, the interim direction dated 15.03.2011 is made absolute.

8. Coming to the contempt case, it is the case of the respondents that they have filed vacate petition on the ground that the writ petitioner was terminated from service w.e.f 17.08.2009 itself. However, it is pertinent to notice that though the respondents filed vacate petition and the same is pending before this Court, it appears that the respondents have not taken any steps to get the vacate petition listed and disposed of, and it is not known as to whether the respondents are aware of the pendency of the writ petition and as to whether any orders are passed in the vacate petition. Further, the learned Standing Counsel for the respondents submits that Standing Counsels of the respondent-Corporation have changed, and that he is the new incumbent in the respondent-Corporation and hence seeks time. In view of the same, I do not see any wilful or wanton disobedience on the part of the respondents.

9. In that view of the matter, while making the interim direction dated 15.03.2011 absolute, the respondent authorities are directed as under:

“The respondent authorities are directed to consider the case of the writ petitioner for alternative employment and pass appropriate orders, in view of the opinion expressed by the APSRTC Hospital, Tarnaka, in the Sick Intimation Certificate, placed at Page No.9 of the material papers, within two weeks from the date of receipt of a copy of this order.”

10. The contempt case is accordingly closed, and the vacate petition is dismissed. No costs. Miscellaneous petitions, if any pending in the contempt case, shall stand closed.

G. CHANDRAIAH, J

14th December, 2015

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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