

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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CONTEMPT CASE No.1594 of 2014

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

This Contempt Case is filed alleging non-implementation of the order passed by the Division Bench of this Court in W.P.No.2120 of 2000 and batch dated 15.06.2001.

The petitioners herein hitherto filed W.P.No.2120 2000 and batch against the order of the Andhra Pradesh Administrative Tribunal (for short the 'Tribunal') in O.A.No.1811 of 1999 and batch dated 31.12.1999. The petitioners were initially appointed as Reserve Sub-Inspectors. They sought inclusion of their service as Reserve Sub-Inspectors for appointment by transfer as Sub-Inspectors (Civil). As the Tribunal held against them, the petitioners invoked the jurisdiction of this Court. The relief claimed by them in W.P.No.2120 of 2000 and batch was to declare the order of the Tribunal as illegal; to hold that the petitioners were entitled to claim seniority from the date of their initial appointment as Reserve Sub-Inspectors; and to, consequentially, direct the official respondents to promote them as Inspectors of Police, on par with persons promoted vide order No.D.O.3938/L & O E2/133/99, dated 09.04.1999, by reckoning and counting their seniority from the date of their initial appointment as Reserve Sub-Inspectors. By its order in W.P.No.2120 of 2000 and batch dated 15.06.2001, the Division Bench allowed the Writ Petitions filed by the Reserve Sub-Inspectors including the petitioners herein.

Sri S.Ramachandra Rao, learned Senior Counsel appearing on behalf of the petitioners, would submit that, as W.P.Nos.2120 of 2000 and batch were allowed, the petitioners have been granted the relief sought for which is to be promoted as Inspectors of Police reckoning their seniority from the date of their initial appointment as Reserve Sub-Inspectors.

Aggrieved by the order of the Division Bench, in W.P.No.2120 of 2000 and batch dated 15.06.2001, the Sub-Inspectors of Police (Civil)

invoked the jurisdiction of the Supreme Court. Leave was granted and, thereafter, Civil Appeal Nos.7370 of 2002 and batch was dismissed by order dated 16.03.2010. The Review Petition filed thereagainst i.e. Review Petition C.No.1853-57/10 in S.L.P.(Civil) No.19858-19862/02 was also dismissed by order dated 18.11.2010. In the interregnum, the respondents herein effected promotions to the posts of Inspectors of Police. The petitioners herein filed O.A.No.5045 of 2007 and batch. Against the order of the Tribunal, the petitioners herein filed W.P.No.27749 of 2007 and batch before this Court. A Division Bench of this Court dismissed all these Writ Petitions by its order dated 31.07.2008 (reported in 2008 (6) ALT 738). The Division Bench noted that, against the order passed in W.P.No.2120 of 2000 and batch dated 15.06.2001, a Civil Appeal was pending; no interim orders were passed by the Supreme Court and, as such, the order of the Division Bench in W.P.No.2120 of 2000 and batch was in force. The Division Bench, however, held that the earlier judgment rendered in W.P.No.2120 of 2000 did not deal with the eligibility criteria for the purpose of promotion to the posts of Inspectors of Police/Deputy Superintendent of Police under the Andhra Pradesh Police Services; and the respondents had rightly held that seniority was altogether different from the eligibility criteria as per Rule 5 (f)(1) of the Andhra Police Service Rules (for brevity, 'the Rules'); and the Tribunal had not committed any error in rejecting the petitioners' claim for promotion.

Learned Government Pleader for Services would submit that, against the order passed by the Division Bench of this Court in W.P.No.27749 of 2007 and batch, the third petitioner herein had invoked the jurisdiction of the Supreme Court by way of S.L.Ps. which are still pending. The respondents issued G.O.Ms.No.54 dated 22.02.2014 preparing an integrated seniority list of Inspectors of Police. Under the said order, the petitioners' seniority was reckoned only from their date of appointment as Sub-Inspectors, and not from the date of their initial appointment as Reserve Sub-Inspectors. It is the order passed in G.O.Ms.No.54 dated 22.02.2014 which is contented to have been passed in violation of the order of the Division Bench of this Court in W.P.No.2120

of 2000 and batch dated 15.06.2001.

Sri S.Ramachandra Rao, learned Senior Counsel appearing on behalf of the petitioners, would submit that, as the order of the Division Bench in W.P.No.2120 of 2000 and batch dated 15.06.2001 had merged with the order of the Supreme Court in Civil Appeal No.7372-7374 of 2002 and batch dated 16.03.2010, the judgment in W.P.No.27749 of 2007 and batch dated 31.07.2008 stands, automatically, overruled; as the order of this Court in W.P.No.2120 of 2000 and batch dated 15.06.2001 has merged in the order of the Supreme Court in Civil Appeal No.7372-7374/2002 dated 16.03.2010, it is the order of the Supreme Court which is binding under Article 141 of the Constitution of India; and, even if there are two contradictory orders, the earlier order of the Division Bench in W.P.No.2120 of 2000 and batch dated 15.06.2001, having been affirmed by the Supreme Court, necessitated compliance in preference to the order passed by the Division Bench in W.P.No.27749 of 2007 and batch dated 31.07.2008.

Learned Government Pleader for Services, appearing on behalf of the respondents-contemnors, would, however, contend that the subsequent Division Bench took note of the earlier order of the Division Bench in W.P.No.2120 of 2000; having taken note of the said judgment, the subsequent Division Bench held that seniority was different from the eligibility criteria; merely because the petitioners were given seniority from the date of their initial appointment did not make them eligible for promotion as Circle Inspectors as they are eligible to be so promoted only from the date of their being appointed as Sub-Inspectors (Civil), and not from the date of their initial appointment as Reserve Sub-Inspectors; even assuming that the earlier order of the Division Bench required the petitioners to be promoted as Inspectors of Police, the respondents cannot be said to have committed Contempt of Court in the light of the subsequent order of the Division Bench in W.P.No.27749 of 2007 and batch dated 31.07.2008.

In the counter-affidavit, filed on behalf of the respondents, it is

contended that the Contempt Petition is barred by limitation. We see no merit in this contention as the order, which the petitioners claim to be in violation of the order of the Division Bench in W.P.No.2120 of 2000 and batch dated 15.06.2001, is the order in G.O.Ms.No.54 dated 22.02.2014; and as the petitioners have invoked the jurisdiction of this Court on 11.09.2014, less than seven months thereafter, the Contempt Case cannot be said to be barred by limitation.

It is, however, necessary to bear in mind that proceedings under the Contempt of Courts Act (for brevity, 'the Act') are quasi-criminal in nature; and it is only on a clear case, of wilful and deliberate violation of the order of this Court, being made out would action be required to be taken under the Act. While the submission of Sri S.Ramachandra Rao, learned Senior Counsel appearing on behalf of the petitioners, that the order of the Division Bench in W.P.No.2120 of 2000 and batch dated 15.06.2001 required the petitioners therein to be promoted as Inspectors of Police, cannot be brushed aside, this Court cannot also ignore the fact that the order of the Division Bench, in W.P.No.27749 of 2007 and batch dated 31.07.2008, was passed in Writ Petitions filed by the very same petitioners in W.P.No.2120 of 2000 and batch. The order of the Division Bench in W.P.No.27749 of 2007 and batch dated 31.07.2008 is a judgment *inter partes* and is binding on the parties thereto including the petitioners herein. In its order in W.P.No.27749 of 2007 and batch dated 31.07.2008, the subsequent Division Bench took note of the earlier orders passed in W.P.No.2120 of 2000 and batch dated 15.06.2001, and yet rejected the petitioners' contention that their services as Reserve Sub-Inspectors should be reckoned not only for their appointment as Sub-Inspectors (Civil) but also for their promotion as Inspectors of Police. In the light of the two orders (which appear to be in conflict with each other), the respondents cannot be held to have wilfully and deliberately violated the order passed by this Court in W.P.No.2120 of 2000 and batch dated 15.06.2001.

Leave being granted by the Supreme Court, and the Civil Appeals being dismissed thereafter, would mean that the order in W.P.No.2120 of 2000 and batch dated 15.06.2001 has merged with the order of the

Supreme Court, and it is the order of the Supreme Court in Civil Appeal No.7372-7374/02 dated 16.03.2010 which is in force. While the order of the Supreme Court is undoubtedly binding on all Courts under Article 141 of the Constitution of India, the fact remains that the earlier order of the Division Bench in W.P.No.2120 of 2000 and batch was noted by the subsequent Division Bench in its order in W.P.No.27749 of 2007 and batch dated 31.07.2008, and yet the petitioners' claim was negated. We must express our inability to agree with the submission of

Sri S.Ramachandra Rao, learned Senior Counsel appearing on behalf of the petitioners, that, on the Civil Appeals being dismissed by the Supreme Court, the order of the Division Bench in W.P.No.27749 of 2007 and batch dated 31.07.2008 has been implicitly overruled. An order of the Court can only be set at naught in appropriate legal proceedings, and can only be reversed by the Supreme Court in the S.L.P. preferred thereagainst by the third petitioner herein. As long as the said order of the Division Bench, in W.P.No.27749 of 2007 and batch dated 31.07.2008, remains in force, and as the petitioners' specific claim for being appointed as Inspectors of Police has been rejected therein, the order passed by the respondents in G.O.Ms.No.54 dated 22.02.2014 cannot be said to be in wilful and deliberate violation of the order passed by the earlier Division Bench in W.P.No.2120 of 2000 and batch dated 15.06.2001.

We see no reason, therefore, to proceed to take action against the respondents under the Act. We make it clear that we have not expressed any opinion on the correctness or otherwise of the law declared by the Division Bench in W.P.No.27749 of 2007 and batch dated 31.07.2008, more so as the S.L.P. preferred thereagainst is said to be still pending before the Supreme Court. 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

11th February, 2015.
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M.SATYANARAYANA MURTHY, J