

HON'BLE SRI JUSTICE R. KANTHA RAO

Contempt Case No.1662 of 2014

ORDER:

Heard Sri M. Pitchaiah, learned counsel appearing for the petitioner and Sri Venkateswarlu Nimmagadda, learned standing counsel for respondents.

2. The petitioner worked as Typist in the office of the 1st respondent-Municipality and he was terminated from service on 01.04.1997. He raised a dispute under ID No.283 of 2001 before the Labour Court, Guntur, contending that without following the procedure under Section 25-F of the Industrial Disputes Act, he was terminated from service. Apart from reinstatement, he sought a direction for continuity of service and for payment of back wages. The Labour Court passed award dated 17.07.2013 holding that the respondents have not followed the provisions under Section 25-F of the Industrial Disputes Act while retrenching the petitioner and allowed the petition as prayed for.

3. The petitioner filed WP No.17561 of 2014 alleging that the award passed by the Labour Court has not been complied with by the respondents. This court passed an interim order dated 27.06.2014 directing the respondents to pay the back wages due under the Award dated 17.07.2013 to the petitioner within a period of two months. The present contempt case is filed to punish the respondents on the ground that they wilfully disobeyed the order dated 27.06.2014 passed by this court.

4. The respondents filed counter-affidavit stating that Sri D. Srinivasa Rao, the then Commissioner of the Narasaraopeta Municipality, who was made as 1st respondent, was transferred to

Ongole Municipal Corporation and was relieved on 15.11.2014. Thereafter, on the application of the petitioner, the cause title was amended and the present Commissioner Sri B.Dev Singh was substituted in the place of Sri D.Srinivasa Rao. It is further submitted that Sri B.Dev Singh, took charge as Commissioner of Narasaraopet Municipality on 04.05.2015 and he could not file the petition to vacate the interim order within appropriate time. However, for complying the interim order passed by this court, the 1st respondent had to obtain sanction for payment of back wages from the Council of the Municipality and also from the Head of the Department i.e., the Commissioner and Director of the Municipal Administration & Urban Development. In the circumstances, he submitted that the petitioner was neither NMR nor engaged on contract basis. His services were engaged on piece rate basis and basing on the amount of work done by him, his wages were being paid and his services were to be continued basing on a fresh notification issued every year. Therefore, the contention of the respondents is that the petitioner is not entitled for compensation as provides under Section 25-F of the Industrial Disputes Act.

5. The said question does not require for consideration in the present contempt case, because there is an award passed by the Labour Court under Industrial Disputes Act granting relief as prayed for by the petitioner. The only question requires for determination in the present contempt case is, whether the interim order passed by this court has been complied with or not?

6. It is submitted by the learned standing counsel appearing for the respondents that as per the undertaking given by the respondents before this court, the respondents have complied with the order by issuing proceedings dated 15.06.2015, and paying an amount of Rs.1,88,134/- to the petitioner vide Cheque dated 16.06.2015 drawn on State Bank of India, Narasaraopeta Branch. The said cheque was

received and encashed by the petitioner. According to the learned standing counsel, the wages last drawn by the petitioner were paid from 01.04.1997 to May 2015. On the other hand, learned counsel appearing for the petitioner submits that the wages are not static and the respondents are liable to pay the wages considering their escalation from time to time and therefore, there is no substantial compliance of the order passed by this court and the respondents are liable for punishment under Contempt of Courts Act.

7. There are rival contentions before this court as to the rate of wages to be paid to the petitioner from time to time. The specific contention of the respondents is that the petitioner is entitled at the rate on the basis of last pay drawn. While deciding the issue whether the respondents are guilty of any wilful disobedience in regard to the order passed by this court, this court has to examine the conduct of the respondents. Though, there is some delay on the part of the respondents, the 1st respondent issued a cheque for an amount of Rs.1,88,134/- to the petitioner, calculating the wages basing on the last wage drawn by the petitioner. According to the respondents, the petitioner is entitled at the said rate and he is not entitled for any further amount that is being enhanced from time to time. If computation of wages arrived at by the respondents is disputed by the petitioner, he can as well file an execution petition before the Labour Court under Section 11-B of the Industrial Disputes Act. While exercising contempt proceedings, this court is not supposed to act like an executing court and examine the issue as to at what rate exactly the petitioner is entitled for back wages.

8. In the facts and circumstances of the case, this court is of the considered view that there is no wilful disobedience on the part of the respondents in complying with the order passed by this court. If the petitioner thinks that the wages have not been properly calculated, he

can take further steps by way of separate proceedings and the said issue cannot be decided in the present contempt case.

9. Consequently, the contempt case is closed. No order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

R. KANTHA RAO, J

Date: 02.12.2015
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HON'BLE SRI JUSTICE R. KANTHA RAO

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