

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Case (C) No. 141 of 2016**

Sumit Prasad S/o Late Shri Dheerendra Prasad, AGed about 27 years, R/o H-3-227, 1100 Quarters, Area Colony, Bhopal, Madhya Pradesh.

---- **Petitioner**

Versus

1. Mr. Satyendra Kumar, General Manager, SECR Bilaspur Division, District Bilaspur, Chhattisgarh 495004
2. Mr. P.C. Naik, Chief Personnel Manager, SECR, Bilaspur Division, District Bilaspur, Chhattisgarh.
3. Mr. R. Ganeshan, Senior Personnel Officer, SECR Bilaspur Division, District Bilaspur, Chhattisgarh.

---- **Respondents**

Contempt Case (C) No. 170 of 2016

K. Vipin Kumar S/o K.V.R.Rao, Aged about 29 years, R/o F Pocket, Maroda Sector, Bhilai, District Durg, Chhattisgarh 490006

---- **Petitioner**

Versus

1. Mr. Satyendra Kumar, General Manager, SECR Bilaspur Division, District Bilaspur, Chhattisgarh 495004
2. Mr. P.C.Naik, Chief Personnel Manager, SECR Bilaspur Division, District Bilaspur, Chhattisgarh.
3. Mr. R. Ganeshan, Senior Personnel Officer, SECR Bilaspur Division, District Bilaspur, Chhattisgarh.

---- **Respondents**

For Petitioners	: Shri Romir Sumit Goyal, Advocate.
For Respondents	: Shri Abhishek Sinha, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board

Per Deepak Gupta, Chief Justice

14/07/2016

1. These two contempt petitions are being disposed of by common order.
2. The Petitioners in both these cases had approached the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting at Bilaspur (for short 'the Tribunal'), claiming that the South East Central Railways has not issued the letter of appointment to them for being appointed in Group 'D' post against the sports quota.

3. The Tribunal decided the case in favour of the Petitioners and further held that it was the Respondents/Railways which was responsible for the delay and therefore directed the Respondents to give retrospective appointment. All service benefits such as seniority etc. was to be given to the Petitioners except that they were not entitled to back-wages.

4. The Union of India filed two writ petitions viz. Writ Petition (S) Nos. 3651 of 2015 and 3749 of 2015 before this Court. This Court, after discussing the entire matter, vide its judgment dated 09.10.2015, held as follows:

"5. Suffice it to observe that we find no error in the conclusion of the Tribunal that no person can be permitted to take advantage of his own wrong. We do not consider bureaucratic apathy as a valid ground to hold that there was no arbitrariness in conduct on the part of the Petitioners and that because the Respondent had no indefeasible right to appointment, the Tribunal committed error. To that extent, the writ petition is dismissed.

6. We do however find substance to a limited extent that the Tribunal in exercise of judicial review ought to have confined its jurisdiction to errors in the decision making process and could not have given directions for appointment of the Respondent. Aptly, the correct order to be passed by the Tribunal was to direct the Petitioners to take a fresh decision in accordance with law within the time indicated by the Tribunal. The orders passed in exercise of jurisdiction under Articles 136 and 141 of the Constitution of India are on a different platform.

8. The order is therefore set aside to the extent that it directs appointment. The Petitioners are directed to consider the case of the Respondent for appointment in accordance with the observations contained in order of the Tribunal and as discussed by us within a maximum period of three months from the date of receipt and/or production of a copy of this order."

5. Thereafter, the Respondents sought extension of time to comply with the judgment. However, since the judgment was not complied within time, contempt petitions were filed. After filing of the contempt petitions, the Respondents have issued appointment orders in favour of the Petitioners on 07.05.2016. Therefore, this part of the High Court order is complied with.

6. Learned counsel for the Respondents submits that there is no contempt of the order passed by this Court or the Tribunal.

7. The grievance of the Petitioners is that they have not been given past seniority and other benefits as envisaged in the order of the Tribunal. These allegations are not admitted. As far as the order of this Court is concerned, that has been complied with.

8. If the Petitioners are aggrieved with non-compliance of the order passed by the Tribunal, then the appropriate remedy is to approach the Tribunal either by way of filing contempt petition or any other remedy and the Tribunal shall obviously deal with the matter in accordance with law.

9. The contempt petitions are disposed of.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE