

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 165 of 2015

1. Narrottam Kumar Sahu S/o Shri Puswa Ram Sahu, aged about 40 years, Assistant Grade- I at High Court Establishment, High Court of Chhattisgarh, Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Shri Arvind Shrivastav, the then Registrar General of the High Court of Chhattisgarh, Bilaspur, Retired from the post District and Sessions Judge, Raipur Residing At- R-2/8 Rama Valley Colony, Raipur Road, Bilaspur, Chhattisgarh
2. Shri R.C.S. Samant, the then Incharge Registrar General of the High Court of Chhattisgarh, Bilaspur, Presently posted at and as District and Sessions Judge, Raipur, Chhattisgarh

---- Respondents

For Petitioner – Shri Pallav Mishra, Advocate.

For Respondent No.1 – Shri Arvind Shrivastava, in person.

For Respondent No.2 – Shri Prafull N. Bharat, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

03/11/2016

1. With the consent of the parties, the matter heard finally at the motion stage itself.
2. Facts, in brief, required for adjudication of the instant Contempt Case (C) are that the present petitioner along with two other petitioners had filed W.P.No.3926/2005. Hon'ble Division Bench vide its order dated 19-10-2011 directed that Rule 12 Sub-rule 2 part of clause c as in the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961 is hereby struck down. Hon'ble the Division Bench directed the respondent No.1, i.e., High Court of Chhattisgarh, Bilaspur through Registrar General to prepare and publish a fresh gradation list of the Assistant Grade -III. In pursuance of said order, the High Court of Chhattisgarh have published alleged list of employees and officers of High Court of Chhattisgarh as shown in Annexure-C/6 though the entire copy of said Annexure does not contain any signature of any of the officers of the High

Court, no any declaration attached that this is an official gradation list published by the High Court, but during submission of argument on behalf of the respondents, it is submitted that so far as the placement of the petitioner in said gradation list for Assistant Grade-II on serial No.3 is concerned, they are not disputing the said fact that the petitioner finds place in the list of Assistant Grade-II in serial No.3. After publication of said alleged list, the petitioner had filed the instant Contempt Case (C) with a prayer to punish the respondents for non-compliance of the order in spirit passed by the High Court of Chhattisgarh in W.P. No.3926/2005.

3. Learned counsel for the petitioner submits that as the High Court of Chhattisgarh utterly failed to comply with the order in its spirit passed by the Division Bench of this Court in W.P. No.3926/2005, hence the present respondents may be punished for non-compliance of the order.

4. Perused the petition, copy of the order passed in W.P. No.3926/2005 dated 19-10-2011.

5. For relevance paras 20, 21 and 22 of the impugned order dated 19-10-2011 is reproduced here:-

“20. On the basis of aforesaid discussions, we hold that the words “..... subject to the condition that he will be given seniority, from the date he has been holding the post of on deputation or the date from which he has been appointed on a regular basis to the same or equivalent grade in his **present department whichever is later**” of clause (c) of Rule 12 (2) of the Rules of 1961 are liable to be struck being absurd and non-sens in the eye of law and accordingly, the same are hereby struck down.

21. The respondent No.1 is to prepare and publish a fresh gradation list of the Assistant Grade-III counting seniority of the petitioners in accordance with the existing rules, that is to say, after excluding the part

of clause (c) of the Rule 12 (2) which has been struck down by this order.

22. The petition is allowed to the extent indicated above. No order as to costs.”

6. After perusal of the said Rule 12(2) of Rules 1961, as in part of clause (c) of Rule 12 Sub-rule 2 of the Rules, 1961, it goes to show that the Division Bench of this Court struck down only the part of said clause (c) which is reproduced here:-
.....“subject to the condition that he will be given seniority, from the date he has been holding the post of on deputation or the date from which he has been appointed on a regular basis to the same or equivalent grade in his present department whichever is later.” Only.

It is surfaced by the alleged list Annexure C/6 though not duly authenticated and same does not appear as if this list was officially published under the authority of the High Court of Chhattisgarh. Even apart, in the said list, in category of employee as Assistant Grade –II, name of petitioner is mentioned on serial No.3.

7. Perusal of the impugned order aforementioned, it appears that respondent No.1, i.e., the High Court of Chhattisgarh are directed to prepare and publish a fresh gradation list of Assistant Grade-III counting seniority of the petitioner in accordance with the existing rules, that is to say, after excluding the part of clause (c) of the Rule 12 (2) which has been struck down by that order. As the name of the petitioner finds place in seniority list of A.G.-II also the said list is not authenticated or not admitted under the rules of prudence and as formal formulation of any list duly authorized signed and issued under the authority of High Court of Chhattisgarh, but even for the sake of argument, the said list and the placement of the present petitioner is considered to be true for the moment, even then if the name of present petitioner finds place in the category of Assistant Grade-II, it cannot be held that while preparing the said alleged list wherein the

petitioner's name finds place as Assistant Grade-II any of the respondents committed any contempt willfully for which they may be tried and punished accordingly. Also the petitioner has no locus to challenge any spirit of the said list regarding Assistant Grade-III as he himself does not fall under the category of Assistant Grade-III.

8. On due consideration, present petition does not have any substance on the face of it, the same ought to be dismissed and is hereby dismissed as not maintainable at the motion stage itself.

9. Petition dismissed.

10. Contempt Case No.166 of 2015 is hereby de-linked.

Sd/-
(Chandra Bhushan Bajpai)
Judge