

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CONTEMPT PETITION NO. 170/2016 IN
LETTERS PATENT APPEAL NO.212/2010 (D) IN
WRIT PETITION NO.2563/2005 (D)

Pramod Singh s/o Late Shri Hanuman Singh Parihar ..vs.. Mrs. Pushpa Chouhan,
MSEDCL, Mumbai and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. S. Sundaram, Advocate for petitioner.
Mr. R. E. Moharir, Advocate for respondent nos. 1 and 2.

CORAM : B. R. GAVAI & V. M. DESHPANDE, JJ.
DATE : JULY 29, 2016

The present contempt petition has been filed with a grievance that the orders passed by this Court in Writ Petition No.2563/2005 dated 12.01.2010 and confirmed by the Division Bench of this Court in Letters Patent Appeal No.212/2010 on 01.04.2016, thereby confirming the order passed by the learned Industrial Court allowing the complaint filed by the petitioner holding the petitioner to be entitled for transfer as Assistant Computer Operator/Assistant Programmer is not complied with.

In pursuance of the notice issued by this Court on 10.06.2016, an affidavit is filed on behalf of respondents nos. 1 and 2 on 08.07.2016. On the said date, the respondent nos. 1 and 2 were personally present in the Court. On the said date, we have heard the matter and prima facie, we are of the view

that in view of the order dated 08.07.2016, the order passed by the Industrial Court and confirmed by the learned Single Judge as well as the Division Bench of this Court stood complied with. However, the learned counsel appearing in the matter had submitted that the order passed by the Court postulated that the petitioner should be posted at Koradi and as such directing the petitioner to be posted at Mumbai, amounts the disobedience of the orders passed by this Court.

Today, Mr. Sundaram, Advocate, appears on behalf of the petitioner after obtaining no objection from the earlier counsel who was appearing in the matter. He attempted to argue that the reply filed by the respondents, rather than purging the contempt, amounts to aggravating it. He submitted that it is stated in the order that the question regarding consequential benefits from 27.10.1988 would be considered as per the rules and regulations of the MSEDCL prevailing from time to time.

Another argument that is advanced is that the post of Assistant Computer Operator is also abolished by the MSEDCL.

Insofar as the first contention is concerned, it is a commonly known that the matter of calculation of benefits to be paid to an employee on account of a judicial order always takes

some time. The counsel appearing on behalf of the respondents, to whom the such directions are issued, always seek a reasonable time to comply with the orders passed by the Court, insofar as the monetary benefits are concerned.

In that view of the matter, we do not find any error in the order providing that the issue of consequential benefits on account of the order passed by the Industrial Court will be decided as per the rules and regulations. However, we direct the respondents to decide and work out the amount to be paid to the petitioner in view of the order of the learned tribunal within a period of three months from the date on which the petitioner joins the posting as per the order dated 07.07.2016.

Insofar as the other argument that the post of Assistant Computer Operator is already abolished is concerned, it is none of the business of the petitioner. Maybe, in pursuance of the directions issued by this Court and to comply with the same, the petitioner has been posted as Assistant Computer Operator, though the post may not be in existence. There is another angle to it. Had the petitioner not been posted as an Assistant Computer Operator and not given the same designation, the petitioner would have again come before this Court contending that the orders of the Court are not complied

with as he is not appointed as an Assistant Computer Operator. The petitioner cannot be permitted to eat the cake and have it at the same time.

In that view of the matter, we find no substance in the Contempt Petition filed by the petitioner. The same is, therefore, rejected.

JUDGE

JUDGE

kahale

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: Y. A. Kahale.

Uploaded On:30.07.2016