

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MRS JUSTICE ANIS**

CONTEMPT CASE No.1117 of 2016

ORDER : (Per Hon'ble Sri Justice V. Ramasubramanian)

Complaining willful disobedience of the order passed by this Court on 03.07.2015 in W.A.No.944 of 2011, one out of 23 writ petitioners has come up with the above contempt case.

Heard Mr. Jalli Kanakaiah, learned counsel for the petitioner and Mr. E. Manohar, learned Senior Counsel representing Mr. Kakara Venkata Rao, learned counsel for the respondent.

The operative portion of the order dated 03.07.2015 passed in W.A.No.944 of 2011 reads as follows:

“Accordingly, the Writ Appeal is allowed setting aside the order, dated 18.08.2011 in W.P.No.1307 of 2000 directing the respondent Corporation to absorb the appellants as Junior Helper/Junior Attendant with effect from 24.09.1998, on which date 128 employees were absorbed with all attendant benefits. After absorption, similar benefits have to be extended to the appellants also on par with 128 employees who were already absorbed. The said exercise shall be completed within a period of two (2) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Appeal shall stand closed.”

It appears that the respondent Corporation went on appeal to the Supreme Court, but the Special Leave Petition was dismissed at the admission stage on 07.12.2015.

Admittedly, the respondents have now absorbed 22 out of 23 writ petitioners, showing substantial compliance of the order passed by this Court. It is settled law that when there is substantial compliance, the non-compliance with some portion of the order, on account of some reasons that the respondents come up with which have to be decided independently, cannot lead to a finding of willful disobedience.

In the case on hand pursuant to the order of this Court, the petitioner herein was also issued with a provisional appointment order on 25.01.2016 subject to his producing the original educational qualification certificates. Admittedly, the rules require a pass in the VIII standard for recruitment to unskilled level at Class-IV. Unfortunately for the petitioner, this qualification is also incorporated in the present judgment out of which the present Contempt Case arises. Therefore, the order has to be understood in the context of the qualification that this Court has recorded.

It is unfortunate that the petitioner does not hold a pass in VIII standard but subsequently, passed SSLC. Therefore, the refusal of the respondents to absorb the petitioner, who was one among the 23 writ petitioners, cannot be said to be a willfull disobedience of the order. Hence the Contempt Case deserves to be dismissed. However, it will be open to the applicant to take up the issue relating to the qualification separately. The respondent-corporation may also independently consider the acquisition of a pass in SSLC by the petitioner subsequent to the original appointment and pass appropriate orders, as a pass in SSLC would certainly supersede the original requirement of a pass in VIII standard.

With the above observations, the Contempt Case is closed.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE ANIS

24th August, 2016
Js.