

HON'BLE SRI JUSTICE S. RAVI KUMAR

CONTEMPT CASE No.1201 of 2014

ORDER:

This contempt case is filed under the Contempt of Courts Act to punish respondents for flouting and violating the order of this Court in W.P.No.17035 of 2003 dated 24.07.2009.

2. Petitioner herein filed the above referred writ petition seeking a direction, more particularly, in the nature of Mandamus declaring action of 4th respondent-Manager, Rayalaseema Grameena Bank, Chagalamarri Branch, Nandyal Mandal, in orally instructing petitioner not to attend for duties, as illegal, arbitrary and violative of fundamental rights guaranteed under Constitution of India and consequently to direct respondents to continue the services of petitioner.

3. This court on considering the submission of advocate for petitioner, disposed of W.P.No.17035 of 2009 on 24.07.2009, with the following direction:

“ When the matter is taken up for hearing, it is submitted by the learned counsel for the petitioner that there are permanent vacancies of the posts of Messenger-cum-Sweeper and since the petitioner was appointed as early as in the year 1991 and has been working as such on temporary basis for the last 17 years, the case of the petitioner may be considered against the permanent vacancy.

Under the circumstances, the writ petition is accordingly disposed of with a direction to the respondent authorities to consider the case of the petitioner for appointment as Messenger-cum-Sweeper on permanent basis in the existing vacancy. No costs.”

4. According to petitioner, respondent authorities issued a

notification in November, 2012 for recruitment of Office Attendant addressed to Employment Exchanges, Zilla Sainik boards and sent a communication to petitioner on 23.11.2012 directing him to apply for the said post by referring order dated 24.07.2009 in W.P.No17035 of 2003. According to petitioner, though he is eligible for getting regularization of his services to the said post, respondents neither considered his candidature against existing vacancies available from the year 2009 onwards in compliance of orders dated 24.07.2009 nor considered his application for regularization of his services against the post of Office Attendant. According to petitioner since 1991, he is working as Messenger-cum-Sweeper continuously and his entire life is attached to the bank and he has lost his age to get any other employment anywhere and that he is fully dependant on the respondent bank for his livelihood and there is no other source for himself and to his family. In spite of that, bank has not considered his candidature against existing vacancies since 2009 and he has got only 8 years of service still left to reach the age of superannuation of 58 years and respondents in not implementing the order dated 24.07.2009 passed in W.P.No.17035 of 2003 amounts to flouting and violating the order, therefore liable for punishment under Sections 10 to 12 of Contempt of Courts Act r/w Article 215 of the Constitution of India.

5. Respondents filed counter-affidavit disputing the affidavit averments of petitioner and according to the counter, respondents immediately after receiving the order of this Court and as per the guidelines of Government of India called for sponsored list of candidates from District Employment Exchanges and Zilla Sainik Boards of 5 districts and also called for applications from writ

petitioner including petitioner who obtained orders from the Courts to the post of Office Attendant in compliance of the order passed by this Court dated 24.07.2009. But subsequent to issue of notification, some individuals approached this Court and filed several writ petitions and this Court has passed interim orders in some of those writ Petitions directing respondent bank not to finalize the selections until further orders and that respondent bank filed counter-affidavit along with miscellaneous petitions for vacating those interim orders and also filed review petitions and made all efforts in those writ petitions to get interim orders vacated in order to complete the process of recruitment of Office Attendants concerning all the candidates, who applied against notification including petitioner. It is further contended that the request of petitioner for appointment to the post of Office Attendant is still under consideration along with other applicants and allegations that respondents flouted the order dated 24.07.2009 is incorrect. It also further contended that the respondents took necessary action in compliance of the order dated 24.07.2009 to consider the case of petitioner for appointment on permanent basis in the existing vacancy and result of that selection would be communicated to petitioner the moment process is completed and that the selection process could not be completed due to the stay orders granted by this Court and that there is no fault on the part of respondents.

6. Heard both sides.

7. Advocate for petitioner and advocate for respondents reiterated the contentions of their respective clients at the time of arguments.

8. Now it has to be seen whether respondents have flouted

and violated orders of this Court dated 24.07.2009. As seen from the record, the main prayer in the writ is to declare action of 4th respondent who orally directed petitioner not to attend for duties as illegal, arbitrary and violative of fundamental rights guaranteed under Constitution of India. As seen from the writ order, the relief claimed in that writ petition is not in respect of regularization or appointing the petitioner as attendant against permanent vacancy. In fact that request was considered sympathetically on the representation of the advocate for petitioner and the above referred direction was given to respondent authorities. Respondents bank has issued a reply on 18.05.2014 to the legal notice issued on behalf of petitioner dated 19.04.2014 explaining all the reasons as to why respondents could not take up the selection process which were beyond the control of respondent authorities. Even after receiving such reply, petitioner without taking any recourse to get himself impleaded in the writ petitions pending to appraise the Court about his grievance and get interim orders vacated or at least to get a direction separately in respect of petitioner invoked the jurisdiction of this Court under the Contempt of Courts Act.

9. One of the submissions of advocate for petitioner is that this Court passed order in the year 2009 and respondent authorities commenced the selection process in the year 2012 and that itself is an indication about the violative nature of respondents. But as seen from the material, petitioner did not take any action against respondents till filing of this application though respondents has not commenced selection process according to petitioner till 2012. As seen from the order of this court, no time is stipulated in the order for compliance. When there is no time

stipulation, petitioner cannot be allowed to contend that respondent bank has not initiated the selection process till 2012. As seen from the material and counter, respondent bank after obtaining necessary orders from authorities concerned commenced the selection process in the year 2012, for which, it cannot be faulted. Since selection process is not now in the hands of respondent, contention of petitioner that they have violated the direction of this Court, cannot be accepted. Further as no final orders are passed with regard to direction of petitioner for his appointment as Attendant against permanent vacancy, the contention with regard to violation cannot be accepted.

10. On a scrutiny of the material, I am of the view that petitioner failed to make out any case attracting the provisions of Sections 10 to 12 of Contempt of Courts Act and that the contempt case is liable to be dismissed.

11. Accordingly, this Contempt Case is dismissed at admission stage. No costs. Miscellaneous petitions, if any pending, in this contempt case shall stand closed.

S. RAVI KUMAR, J

Date: 05-02-2016.
gvl