

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

AND

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA
MURTHY**

CONTEMPT CASE NO.728 OF 2016

**ORDER: {Per the Hon'ble Sri Justice Ramesh
Ranganathan}**

This Contempt Case is filed alleging violation of the order passed by this Court in WP.MP.No.9562 of 2015 in WP.No.7175 of 2016 dated 16.04.2015. By the said order this Court directed that the petitioner may be considered for promotion as Prohibition & Excise Superintendent in another vacancy, if any, available on condition that the fourth respondent is not reverted from the post, he held as Excise Superintendent, and his seniority *visa-a-vis* the petitioner is maintained. This Court made it clear that the petitioner was not entitled, until further orders, to claim seniority over the fourth respondent.

While the order of this Court enabled the respondent to consider the petitioner's case for promotion as Excise Superintendent in another vacancy, if any, available, what the respondents were precluded from doing was either to revert the fourth respondent from the post of Excise Superintendent or to grant the petitioner seniority over and above the fourth respondent.

We find considerable force in the submission of Sri P.V.Krishnaiah, learned counsel for the petitioner, that, having referred the petitioner's case to the Review DPC

on its own accord, the Government should not have issued Memo No.33397 dated 18.03.2016 on the ground that there were legal implications and complications arising from the order of this Court in WP.MP.No.9562 of 2015 in WP.No.7175 of 2015 dated 16.04.2015. The order of this Court does not suffer from any ambiguity. While no mandamus was issued by this Court to the Government to consider the case of the petitioner for promotion as Excise Superintendent, it was left open to the Government to consider his case for promotion in any vacancy, other than that which had been filled up with the appointment of the fourth respondent as Excise Superintendent.

While it is debatable whether the Government, having already referred the matter to the Review DPC, was justified in issuing Memo No.33397 dated 18.03.2016, and thereby refraining from considering the case of the petitioner for promotion as Excise Superintendent on the ground that legal implications and complications arose from the order of this Court, that, by itself, would not amount to wilful and deliberate violation of the order of this Court for no mandamus was issued by this Court directing the respondents to promote the petitioner as Excise Superintendent or to consider his case for promotion to the said post. Proceedings under the Contempt of Courts Act, 1971 ("the Act" for brevity) are quasi-criminal in nature and, save a clear case of wilful and deliberate violation of the order having been made out, no action can be taken against the respondents under the Act.

The Contempt Case is, accordingly, closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

15th June 2016
RRB