

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION STAMP NO. 30611 OF 2016
IN
WRIT PETITION NO. 2984 OF 2004

Shri S.K.Jaffar (Shaikh Jaffar M. Chand) .. Petitioner

Vs.

Shri R.K.Verma
The Secretary of Govt.of India and ors. .. Respondents

Mr. Amol D.Joshi, for the Petitioner.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

18th APRIL, 2017

P.C. (PER M.S.KARNIK, J) :

1. The present Contempt Petition is filed alleging breach of the order passed by this Court on 27/03/2008 in Writ Petition No. 2984 of 2004. This Court by order dated 27/03/2008 was pleased to modify the punishment imposed by the Disciplinary Authority and accordingly imposed the punishment of withholding of increment for a period of 3 years. The petitioner had filed Contempt Petition No. 402 of 2010

before this Court alleging the breach of order dated 27/03/2008 in Writ Petition No. 2984 of 2004. The said Contempt Petition came to be disposed of on 15/07/2013 as under :

“ . Heard both sides. Perused the order passed by this court on 27th March, 2008 in the Writ Petition No.2984 of 2004. It is conceded by the Petitioner's Advocate that this order has been challenged in the Hon'ble Supreme Court and a Special Leave Petition is pending.

(2) In these circumstances, we are of the view that if the petitioner is not getting his full pension in terms of the order passed by this Court then, nothing prevents him from raising appropriate contentions before the Hon'ble Supreme Court and equally adopt appropriate proceedings so as to recover not only the pension amount but interest accrued thereon.

(3) Needless to clarify that we have not expressed any opinion on that aspect of the matter and the petitioner would be entitled to his pensionary benefits in terms of the applicable Rules and the directions of this Court in the aforementioned Writ Petition. Keeping such avenues open, Petition is disposed off.”

2. The Special Leave Petition filed by the respondents against the order dated 27/03/2008 in Writ Petition No. 2984 of 2004 was dismissed on 07/05/2014. Thereafter by communication dated 11/09/2014, the petitioner was informed that in compliance of the order passed by this Court in Writ Petition No. 2984 of 2004, the increment raising his pay from Rs.7300/- to Rs.7500/- in scale to Rs.6500/- to Rs.10,500/- (RSRP) which was due on 01/08/2000 is withheld for a period

of 3 years with non cumulative effect with further direction that this will not have effect of postponing the petitioner's future increments of pay. The petitioner was also informed by the communication dated 14/11/2014 that difference of arrears in view of the pay revision as per recommendations of VIth Pay Commission is also calculated and paid. According to the respondents, order passed by this Court is therefore complied with.

3. Faced with the order dated 15/07/2013 passed by this Court in Contempt Petition No. 402 of 2010 and communications dated 11/09/2014 & 14/11/2014 of the respondents informing the petitioner that the order passed by this Court is duly complied with, learned Counsel for the petitioner seeks leave to withdraw the present Contempt Petition. Learned Counsel for the petitioner further prays that the communications dated 11/09/2014 and 14/11/2014 afford to the petitioner a fresh cause of action which the petitioner wants to challenge by filing appropriate application before the

Central Administrative Tribunal.

4. In this view of the matter, the petitioner is allowed to withdraw this Contempt Petition with a liberty to the petitioner to challenge the communications dated 11/09/2014 and 14/11/2014 issued by the respondents. In case such an application is filed before the Central Administrative Tribunal, the same may be dealt with on its own merit and in accordance with law. Needless to mention we may not be understood to have expressed any opinion on the merits of the communications dated 11/09/2014 & 14/11/2014 issued by the respondents.

5. Contempt Petition is accordingly allowed to be withdrawn with liberty aforesaid with no order as to costs.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)