

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CONTEMPT CASE No.368 OF 2017

ORDER:

This Contempt Case is filed alleging violation of orders passed by this Court dated 24.10.2016 in W.P.No.35428 of 2016, wherein this Court disposed of the writ petition with a direction to the respondents 1 and 2 to dispose of the appeals filed by the petitioner dated 23.01.2016 in accordance with law, within a period of eight weeks from the date of receipt of a copy of the order.

2. Heard Party-in-person, who submits that there is a direction to the Board of Directors-1st respondent and the 2nd respondent in the writ petition to dispose of the appeals filed by him. He further submits that the performance appraisal was done by CMD-2nd respondent in the writ petition, as such, he should not have dispose of the appeal, as it amounts to "Caesar to Caesar". He further submits that even the 1st respondent has not considered the appeals filed by the petitioner in its proper perspective and that there is no proper consideration in disposing of appeals filed by the 1st respondent. He submits that the respondents 2 to 10, who constituted as Board of Directors, should have disposed of the appeal filed by the petitioner, as such, the respondents have committed willful disobedience to the orders passed by this Court and not followed the directions of this Court.

3. On the other hand, Sri K.Sarwabhouma Rao, learned Standing Counsel appearing for the respondents, while reiterating the averments in the counter affidavit filed by the respondents, submits that representations/appeals of the petitioner dated 23.01.2016 have been considered and disposed of by the Chairman-Cum-Managing Director, on behalf of himself and also on behalf of the 1st respondent in the writ petition and that the decision thereof had been already communicated to the petitioner by the General Manager (HR)/Corporate Coordination vide his letter No.HR/EE/102650/1558, dated 23.12.2016. He submits that two appeals both dated 23.01.2016, i.e., one is for upgradation of rating and deletion of adverse remarks for the year 2010-11 and the other one addressed to the Board of Directors, is for the same purpose for the years 2009-10 and from the years 2011-2015 and that both the appeals were placed before the Chairman-cum-Managing Director i.e, 1st respondent in the writ petition, who had taken a decision to constitute a committee of directors to go into the issues raised by the petitioner. In the said committee, three Functional Directors i.e., Director (Personnel), Director (Operations) and Director (Commercial), who are none other than the respondents 3 and 4 in the Contempt Case are members. He submits that the said Committee of Directors examined two appeals of the petitioner and submitted their report to the Chairman cum Managing Director, who have considered the report submitted by them, accepted the recommendations of the Committee of Directors and directed to communicate said decision to the petitioner. Accordingly, the General Manager (HR)

Corporate Coordination who is the executive in-charge of the area dealing with the service matters and promotions of senior executive of RINL, communicated the same to the petitioner. He further submits that the said Committee of Directors, for the present purpose, comprised of Dr. GBS Prasad, the then Director (Personnel), Sri D.N.Rao, Director (Operations) and Sri P.Raychaudhury, Director (Commercial). He submits that the appraisal ratings were assigned by the Functional Director for the year 2010-11 and by the Chairman cum Managing Director for the other years mentioned in the representations/appeals. He further submits that adverse remarks were assigned by his reporting Officers and that is the reason, the CMD did not consider the two appeals on his own and instead constituted a committee of Director, without himself being a member thereof. He submits that the Committee examined the appeals/representations and submitted an independent report to the CMD, who in turn approved and got it communicated through the GM (HR), as such, the idiom 'appeal from Ceasar to Ceasar' has no application, as alleged by the petitioner. He further submits that there is no violation of the orders passed by this Court and sought for dismissal of the Contempt Case.

4. In this case, it is to be seen that this Court vide orders dated 24.10.2016 in WP No.35428 of 2016 directed the respondents 1 and 2, i.e., Board of Directors and Chairman cum Managing Director of Rashtriya Ispat Nigam Ltd., to dispose of the appeals filed by the petitioners dated 23.01.2016. Subsequently, the respondents have considered the representations/appeals

filed by the petitioner and passed a detailed order, which was also communicated to the petitioner by the General Manager (HR)/Corporate Coordination vide his letter No.HR/EE/102650/1558, dated 23.12.2016. In the counter affidavit, it is specifically stated that the Chairman cum Managing Director is not present in the Committee of Directors, constituted for the purpose of disposing of the appeals filed by the petitioner. After submission of the report by the Committee of Directors, the CMD approved the same and subsequently communicated by the General Manager (HR) vide proceedings dated 23.12.2016. Though the Party-in-person intended to attack the order of the CMD on merits, this Court cannot decide the validity of the order passed by the CMD, which was communicated to the petitioner, in this Contempt Case.

5. It is submitted by the Party-in-person that the competent authority is the Board of Directors and it has to take a decision, but the same has not taken any decision. But a perusal of the Circular No.PL/EE/1264, dated 02.06.2014 issued by the DGM (P)-EE, RINL, Visakhapatnam, shows that the Committee of Management is the appellate authority in respect of executives grades from E7 – E9. Moreover, it is not disputed by Party-in-person that the Committee of Directors constituted by the CMD considered the appeals filed by the petitioner and passed orders.

In view of above facts and circumstances, it cannot be said that there is a willful disobedience on the part of the respondents in implementing the order passed by this Court in W.P.No.35428 of 2016 on 24.10.2016.

Accordingly, the Contempt Case is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. However, it is open for the petitioner to challenge the orders passed in pursuance to the order in the writ petition, in accordance with law.

A.RAJASHEKER REDDY,J

29-06-2017
kvs



HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Contempt Case No.368 OF 2017



Date:29.06.2017

kvs



