

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CONTEMPT CASE Nos.1321 of 2014 and 2089 of 2016

COMMON ORDER : (Oral)

Vide common judgment dated 08.08.2003, in a batch of writ petitions being W.P.No.32836 of 1997 and batch, this Court passed directions as under:

“In view of the aforesaid discussion, I hold that :

- (i) the action of the respondents in disengaging the petitioners and engaging them through a contractor is nothing but termination of their services in violation of Section 25F of the Industrial Disputes Act, 1947. In the result, petitioners are entitled for reinstatement into service with all attendant benefits except back wages. However, this will not prevent the authorities from taking any action as per Section 7 of Act 2 of 1994, if they so desire.
- (ii) Respondents may also consider the feasibility of regularizing the services of the petitioners in the respective cadres by treating them as industrial workers, since they have completed 240 days of service and have accrued a right of being absorbed on regular basis.

The writ petitions are allowed to the extent indicated above.”

2. It is not in dispute that direction No.(i) above has already been complied with. As far as direction No.(ii) is concerned, this Court directed the respondents to consider the feasibility of regularizing the

services of petitioners in the respective cadres by treating them as industrial workers since they have completed 240 days of service and have accrued a right of being absorbed on regular basis.

3. Pursuant to notice dated 28.04.2017, respondents have passed order dated 05.10.2016, which reads as under :

“Roc.No.DO/03/SVIMS/2014

Dt.05.10.16

SUB: SVIMS – Tirupati – Common orders of the
Hon’ble High Court of A.P., dated 8.8.2003 in
WP.Nos.32836, 32952, 33134, 33422, 33814 &
34422 of 1997 & 27959 of 1998 – Complied
with – Orders issued.

* * *

The writ petition Nos. 32836, 32952, 33134, 33422, 33814 & 34422 of 1997 & 27959 of 1998 were filed by the petitioners on the file of the Hon’ble High Court of Andhra Pradesh questioning the action of the Respondents in giving breaks in service and continuing time scale of pay to the petitioners and consequently direct the respondents to consider the petitioners case for regularization of their service in the post held by them.

The Hon’ble High Court disposed of the said batch of writ petitions with the following direction:

- (i) **The action of the respondents in disengaging the petitioners and engaging them through a contractor is nothing but termination of their services in violation of Section 25F of the Industrial Disputes Act, 1947. In the result, petitioners are entitled for reinstatement into service with all attendant benefits except back wages.**

However, this will not prevent the authorities from taking any action as per Section 7 of Act 2 of 1994, if they so desire.

- (ii) **Respondents may also consider the feasibility of regularizing the services of the petitioners in the respective cadres by treating them as industrial workers, since they have completed 240 days of service and have accrued a right of being absorbed on regular basis.”**

Considering the said directions of the Hon’ble High Court all the petitioners were reinstated and continued in the same post. As far as the second direction of the Hon’ble High Court, we have considered the feasibility of the regularization of the petitioners as per section 7 of the Act 2 of 1994 and also as per G.O.Ms.No.212 Finance & Planning (FW.PC.III) Department, dated 22.04.1994 and also the observations made by the Hon’ble Supreme Court in 2006 (4) SCC 1, (Uma Devi Para 47) that the petitioners are daily waged workers and they have not fulfilled the conditions which are stipulated in the Governmental orders which are in vogue.

Hence in the said circumstances, the petitioners’ cases cannot be regularized contrary to the conditions stipulated in G.O.Ms.No.212 Finance & Planning (FW.PC.III) Department dated 22.04.1994 and other G.Os. which are in vogue.”

4. Under the Contempt of Courts Act, a contemnor can be held guilty and convicted if he deliberately and intentionally not complies with the directions of this Court.
5. It is not in dispute that the first direction of this Court in the batch of writ petitions has already been complied with and with regard to the second direction, the 1st respondent has passed order dated 05.10.2016 as noted above.

6. In view of above, I find no ground to proceed with the contempt proceedings against the respondents.

7. I hereby grant liberty to the petitioners to challenge the order dated 05.10.2016 before appropriate forum, if so advised.

8. Both the contempt cases are disposed of accordingly. Consequently, the respondents are discharged from the contempt proceedings.

Pending miscellaneous applications, if any, shall stand closed.

13th June 2017

ajr

SURESH KUMAR KAIT, J

