

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 612 of 2017

Bhagat Singh Yadav S/o Sujan Singh Yadav, Aged About 41 Years, R/o F Company, Usur, Bijapur, Chhattisgarh, Chhattisgarh

---- Petitioner

Versus

1. Shri B. V. R. Subrahmanium Principal Secretary, Department Of Home, Mantrayalaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh., Chhattisgarh
2. Shri Amarnath Upadhyay, Director General Of Police, Police Head Quarter Raipur, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Shri Sanjay Pillai, Assistant Director General Of Police C. A. F. Police Head Quarter Raipur Raipur Chhattisgarh. , District : Raipur, Chhattisgarh
4. Shri B. P. S. Posariaya, Inspector Director General Of Police C. A. F. Police Head Quarter Raipur Raipur Chhattisgarh. , District : Raipur, Chhattisgarh
5. Ratan Lal Dangi, Deputy Inspector Director General Kanker, Chhattisgarh., District : Kanker, Chhattisgarh
6. Shri B. S. Dhruw, Commandment, I V Battalion, Mana Raipur Chhattisgarh,, District : Raipur, Chhattisgarh

---- Respondents

For Appellant	:	Smt. Renu Kochar, Advocate
For Respondent No.6	:	Shri Yashwant Singh Thakur, Advocate

D.B. : Hon'ble Mr. Justice Manindra Mohan Shrivastava & Hon'ble Mrs. Justice Rajani Dubey

Order on Board

03/07/2018

Per Manindra Mohan Shrivastava, J.

1. This contempt petition arises out of the order passed by the Hon'ble Supreme Court in Civil Appeal No.5295 of 2015 (Annexure C-2) alleging that the direction given by the High Court and modified later on by the Hon'ble Supreme Court have not been complied with and reliefs to which the

petitioner was entitled to as a consequence of the direction issued have not been extended to him till date.

2. In order to appreciate the submission of learned counsel for the petitioner, we need to briefly state the background in which this contempt petition came to be filed.
3. The petitioner while working as Constable in Chhattisgarh Armed Forces (CAF) was removed from service vide order dated 27.4.1998. A departmental appeal was preferred and the order passed by the authority was set aside. Ultimately, in departmental proceedings, the petitioner was reinstated in service though the arrears of salary in respect of the period during which he remained out of employment were denied. This led to filing of writ petition before this Court which came to be dismissed. On writ appeal being filed, it was held that the petitioner shall be entitled to get all arrears of salary and period of absence shall be treated as period spent on duty but subject to the condition that he was not gainfully employed elsewhere during that period. The State, feeling aggrieved by this order, went up in appeal before the Supreme Court. Vide order dated 10.7.2015 (Annexure C-2), the Hon'ble Supreme Court disposed off the appeal with direction and modification. The operative part of the order reads thus:-

“The only question that in that view arises for our consideration whether the direction regarding release of the arrears of salary in favour of the respondent ought to be interfered with or modified. As an abstract Principle of law there is no reason for us to interfere with the direction regarding the release of arrears subject to the condition that “the respondent was not gainfully employed elsewhere”. That condition is however an impediment in the release of the arrears for an inquiry into his gainful employment would be necessary before any release takes place. No such inquiry has been conducted so far nor have the parties placed any material on record about the gainfull

employment of the respondent. Be that as it may instead of the issue being left open to be determined afresh giving rise to a fresh round of litigation on the subject we deem it just and proper to modify the order passed by the Division Bench to the extent that instead of respondent getting full arrears for the period mentioned earlier release of 50% of such arrears in his favour should suffice and meet the ends of justice. This would obviate the necessity of any further inquiry in to the matter. Insofar as continuity of service for purpose of promotion and other benefits is concerned, we see no reason to interfere.

We accordingly allow this appeal but only in part and to the extent that instead of the respondent getting full arrears for the period he remained out of service, release of 50% of such arrears shall suffice. The appeal is with the above direction disposed of leaving the parties to bear their own costs."

4. The petitioner thereafter moved a contempt petition before the Hon'ble Supreme Court alleging willful disobedience of the direction issued by the Court alleging that the salary, as directed by the Supreme Court and other consequential benefits, have not been extended by treating him to be continuous in service in respect of the entire period during which he remained out of employment under the effect of dismissal order. During the hearing of the said case, upon being informed to the Hon'ble Supreme Court, that the arrears of pay to the extent of 50% have been paid to the petitioner, their Lordships in the Supreme Court were pleased to finally dispose off the contempt petition, though, reserving liberty to move the High Court for redressal.
5. After the aforesaid order, now the petitioner approaches this Court by way of this contempt petition and submits that while entertaining the contempt petition filed by the petitioner, the Supreme Court allowed the petitioner to

file petition before this Court. Therefore, in exercise of that liberty, the contempt petition has been moved.

6. Learned counsel for the petitioner argues that the part of the order passed by the High Court in writ appeal directing extension of the benefits of continuity in service was not interfered with by the Supreme Court, therefore, all the consequential benefits flowing therefrom which includes increments, consideration for promotion by treating the petitioner to be continuous in service were required to be extended but the respondents have withheld those benefits and thus have deliberately chosen not to extend those benefits which were liable to be extended as a consequence of the direction given by the High Court in writ appeal as also by the Hon'ble Supreme Court.
7. On the other hand, learned counsel for the respondent submits that there was no intention to flout the order passed by this Court or the Hon'ble Supreme Court. He submits that in the contempt petition, the Hon'ble Supreme Court having been apprised that salary part has been paid, granted liberty to the petitioner to seek redressal of other grievances by filing separate writ petition and not by contempt petition. Lastly, he submits that later on, the authorities have also recommended that case of the petitioner be considered for promotion by taking into consideration the entire service during which he remained out of employment and treating him to be in service right from the date he was initially appointed without any break in service.
8. After hearing learned counsel for the parties, we are of the opinion that the petitioner having approached the Hon'ble Supreme Court alleging willful disobedience of the order passed and contempt petition having been disposed off taking into consideration payment of salary and steps taken by the respondent in the matter, no further proceedings are required in so far as this contempt petition is concerned. Certainly, all the consequential benefits which flow from the order in writ appeal and thereafter by the Supreme Court will have to be extended to the petitioner. It goes without saying that continuity in service should include payment of 50% salary

which necessarily include increments as also consideration of case for promotion treating the petitioner to be continuously in service and he cannot be treated as new entrant in service on the date he was reinstated. For all legal and practical purposes, he would be treated in service right from the beginning.

9. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge