Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 74 OF 2016
IN
WRIT PETITION NO. 1652 OF 2003

Nisha Merry John Gonsalves and ors. .. Petitioners
Vs.
Dr.C.Chandramouli and ors. .. Respondents

Mr.Ramesh Ramamurthy & Mr.Saikumar Ramamurthy, for the Petitioners.
Mr.Y.S.Bhate i/b Mr.N.R.Prajapati, for Respondents.

CORAM : SMT. V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.

RESERVED ON : 31st JANUARY, 2018
PRONOUNCED ON : 06th FEBRUARY, 2018

ORDER (PER M.S.KARNIK, J) :

1. Present Contempt Petition arises out of alleged breach of the judgment and order dated 18/12/2012 passed by this Court in Writ Petition 1652 of 2003.

2. Learned Counsel for petitioners invited our attention to the operative part of the said order at paragraph 8 which reads thus :

> "Accordingly Writ Petition No. 543 of 2002 is allowed in terms of prayer clause (cc) and Writ Petition No. 1653 of 2003 is allowed in terms of prayer clause (a) and (b). Petitioners in both these Petitions are entitled to be regularized as LDCs from the date of their initial appointment. It is further directed that petitioners in both these Petitions are entitled to the consequential benefits including seniority and other benefits for the purpose of fixation of their pension."

3. Learned Counsel for petitioners Shri Ramamurthy also invited our attention to the OM dated 18/05/2015 regarding publication of final seniority list in the grade of Upper Division of Clerk (for short 'UDC') as on 01/05/2014. In his submission the said seniority is restricted only to the petitioners. According to him, respondents should prepare a cadre-wise seniority of UDC. In his submission there is no proper compliance of the directions of this Court in as much as the petitioners are not aware of their respective position in the seniority list of the cadre of UDC.

4. Learned Counsel for the respondents relying upon the OM regarding the seniority list pointed out that UDC at

serial No.1 is not party to any of the Petitions. According to him, the seniority list is duly published.

5. Respondents have filed a detailed affidavit in reply. According to the learned Counsel for the respondents it is not correct to say that seniority of the petitioners is not determined. He submits that seniority list is published after calling for representation/objection to the provisional seniority list. The petitioners chose not to make any representation. Learned Counsel for the petitioners pointed out that seniority position reflects the names of only the petitioners. According to him respective position of the petitioners in the seniority list is not shown and respondents have failed to prepare cadre-wise seniority. This according to Shri Ramamurthy amounts to non compliance of the order passed by this Court.

6. Having heard learned Counsel and upon going through the affidavit dated 28/08/2017 filed by the respondents, we are of the opinion that the directions of this

Court even insofar as grant of seniority is concerned stands complied with. It is not as if final seniority list prepared by the respondents reflects only the names of the petitioners for we find that UDC at serial No. 1 is included in the seniority list though not party to the Petitions filed in this Court. Be that as it may, if the petitioners have any grievance about the legality of the final seniority list, it is for the petitioners to challenge the said list before the appropriate forum. It is not possible for us to decide the issue raised by learned Counsel for the petitioners in course of this Contempt Petition as the same would require detailed adjudication on merits. Suffice it to mention that there has been compliance of the order passed by this Court. By granting liberty to the petitioners to challenge the final seniority list before appropriate forum if so advised, we are of the opinion that the order passed by this Court stands complied with. Contempt Petition is therefore disposed of.

(**M.S.KARNIK, J.**) **(ACTING CHIEF JUSTICE)**