

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

HONOURABLE MS. JUSTICE J. UMA DEVI

C.C.No.657 of 2018

ORDER: (per VRS,J)

Complaining of willful disobedience of an order passed by this Court, the petitioner has come up with the above contempt petition.

2. Heard Mr. V. Hari Haran, learned counsel for the petitioner and Mr. J. Anil Kumar, learned Standing Counsel for the respondents.

3. The petitioner and another person working as Stenographers Grade-I came up with the writ petition W.P.No.12680 of 2015, challenging the orders of repatriation and re-designation.

4. The case of the petitioner in the writ petition was that he was appointed as Steno Typist/Stenographer in the year 1993 and that he was later promoted as Senior Assistant and thereafter as Superintendent. But after the issue of G.O.Ms.No.100, Law Department, dated 08.08.2013, the petitioner was repatriated to the post of Stenographer Grade-III and re-designated as Stenographer Grade-I with effect from 05.08.2008. However by a subsequent proceeding, those orders were cancelled. Therefore, the petitioner came up with the above writ petition.

5. The writ petition was allowed by this Court by an order dated 24.03.2017, restoring the original order of repatriation and re-designation. Contending that the said order was implemented only in respect of one of the writ petitioners and not implemented in his favour, the 2nd petitioner in the writ petition has come up with the above contempt case.

6. On 09.03.2018 the learned Standing counsel for the respondent was directed to take notice and get instructions. On instructions, it was submitted by the learned Standing counsel that though the petitioner

could be promoted as Chief Administrative Officer, it could only be a paper promotion in view of the fact that his turn in the cycle of the ratio of 5:1 had not reached. Therefore, this Court passed an order on 08.10.2018 to the following effect:

“This contempt arises out of an order passed in W.P.No.12680 of 2015. The operative portion of the order reads as follows:

“in view of the above, the writ petition is allowed, the impugned orders are set aside and the original order of the District Judge dated 11-4-2014 shall stand restored. The petitioners will be entitled to all consequential benefits, if any. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.”

There were two writ petitioners, one of whom by name, S. Venkatesham, has already been promoted as Chief Administrative Officer pursuant to the order passed by this court. Though the case of the 2nd writ petitioner, who is the petitioner in this contempt petition, was also recommended by the District Judge for promotion to the post of Chief Administrative Officer, the High Court could not accept it in view of the fact that the rules stipulate a ratio of 5:1 for promotion from the post of Senior Superintendent and Stenographer Grade-I to the post of Chief Administrative Officer. According to the Registry, only one Stenographer Grade-I can be accommodated in every cycle of ‘6’ vacancies and that therefore, both the writ petitioners, who were Stenographers, cannot be accommodated in the same cycle. Hence, it is the stand of the Registry that if the 1st petitioner in the writ petition is accommodated in one cycle, the 2nd petitioner in the writ petition, who is the petitioner in this contempt petition, can be accommodated in the second cycle. However, it is seen from the proposal sent by the Principal District Judge that in violation of this quota rota, ‘12’ Senior Superintendents have already been promoted as Chief Administrative Officers. In other words, the respondents have gone to the third cycle, to accommodate the Senior Superintendent. If that is so, the list has to be re-worked so that the petitioner herein gets his turn in the second cycle.

The learned Standing Counsel may get clarification on this aspect.”

7. Subsequently, this Court found out that one Mr. E. Narasimhlu, who was appointed as Steno Typist only after the petitioner got appointed, was accommodated in the second cycle. Therefore, this Court passed an order dated 13.11.2018 seeking further clarifications. The clarification was submitted by the Registry, pointing out that though E. Narasimhlu was junior to the petitioner in the post of Steno Typist (post of

first appointment), E. Narasimhlu got promoted earlier to the next higher category. Therefore, he is said to have been accommodated in the second cycle.

8. Then this Court directed the learned Standing Counsel to find out what was the effect of the paper promotion granted to the petitioner. In response, it was pointed out that as per the instructions issued under Rule 17(3) of the Fundamental Rules, a Government servant will begin to draw the pay and allowances attached to a post with effect from the date on which he assumes the duties of that post.

9. In the light of the above clarifications, it is not possible for us to hold that the respondent was guilty of willful disobedience. It is true that the grievance of the petitioner remains un-redressed. But the petitioner may have to work out his remedies independently, if the clarifications furnished by the respondent are not in accordance with law. For holding a person guilty of contempt, there must be an intention to flout the orders of the Court directly or by dubious methods. In the absence of the same, allegations of contempt cannot be accepted.

10. Therefore, the contempt petition is closed leaving it open to the petitioner to work out his remedies.

V. RAMASUBRAMANIAN, J.

J. UMA DEVI, J.

31st December, 2018
Js.

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HONOURABLE MS. JUSTICE J. UMA DEVI

C.C.No.657 of 2018

(Per VRSJ)



31st December, 2018

Js.