

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Case (C) No. 134 of 2019**

J. N. Divya S/o Panchram Divya, Aged About 60 Years, R/o Village Pendri (Sahas), Post And P.S.- Sargaon, Tahsil- Pathariya, District- Mungeli, Chhattisgarh

---- **Petitioner****Versus**

1. Shri R. K. Gupta, Chairman C.G. Rajya Gramin Bank, Sunder Nagar, Mahadev Ghat Road, Raipur, Chhattisgarh
2. Shri V.B.G. Rao, General Manager, C.G. Rajya Gramin Bank, Sunder Nagar, Mahadev Ghat Road, Raipur, Chhattisgarh

---- **Respondents**

For Petitioner : Shri Prafull N. Bharat, Advocate
 For Respondents : Shri Kishore Bhaduri & Shri Pankaj Singh, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****30.04.2019**

1. The present contempt petition has been filed alleging the non-compliance of the order dated 26.10.2018 passed in WPS No. 4981/2012.
2. For ready reference, the operative part of the order dated 26.10.2018 passed by this Court is reproduced hereinunder:

“17. For all the aforesaid reasons, this Court is of the firm view that the impugned order of termination and the order of appellate authority so also the enquiry proceedings are bad in law and are not sustainable. The same deserve to be and are accordingly set aside/quashed.

18. Since the orders have been set aside on the ground

that enquiry has not been properly conducted, the matter stands remitted back to the Bank authorities for proceeding further with the enquiry from the stage of initiation of the enquiry altogether afresh keeping in view the observations made by this Court in the preceding paragraphs.”

3. According to the petitioner, he had immediately brought to the notice of the respondents seeking for compliance of the order of this Court but the respondents have deliberately not acted upon the same and have now issued a notice on 18.04.2019 asking the petitioner to participate in the departmental enquiry initiated pursuant to the order dated 26.10.2018.

4. Counsel for the petitioner submits that the said notice dated 18.04.2019 is a correspondence which has been made much after the present contempt petition was filed and even after the respondents had put in their appearance.

5. All said and done, if we peruse the order passed by this Court, it clearly reflects that the order of this Court was for quashment of the two orders dated 01.09.2011 and 20.03.2012 i.e. the order of termination from service and the order of rejection of the departmental appeal respectively. As a natural consequence, it is always expected that the respondents would first have to reinstate the employee back in service and would have to proceed further if they so desire for further compliance of the directions given by the Court. However, in the peculiar facts of the present case, the petitioner crossed the age of superannuation on 31.10.2018 as per the contention of the petitioner and which according to the respondents, the petitioner crossed the age of superannuation on 30th of September, 2018.

In any case, even if the date as has been suggested by the petitioner is accepted, he crossed the age of superannuation immediately after 5 days from the date of passing of the order by this Court. Under normal circumstances, the respondents or the party against whom an order is passed has a reasonable time to consider whether the order of this Court has to be challenged or not. The period of limitation for preferring an appeal also is 45 days. In between, if the respondents, in the course of taking a decision, do not comply with the order, this Court is of the opinion that the same may not fall within the ambit of contempt of Court for the reason that it is their right to decide whether an appeal has to prefer or not. In case if the appeal is not preferred, they are supposed to comply with the order and if then they do not comply with the directions given by this Court, it may fall within the ambit of a deliberate non-compliance of the order of this Court. If we take into consideration the subsequent correspondence that the Bank had made to the petitioner, it appears that they have now initiated proceedings for conclusion of the departmental enquiry in the light of the observations made by this Court in the writ petition which was disposed of on 26.10.2018.

6. So far as the judgment of the Hon'ble Supreme Court, relied upon by the petitioner, in the case *Chhel Singh V. MGB Gramin Bank , Pali and others* reported in (2014) 13 SCC 166 is concerned, if we look into the facts of the case, it appears that in the said case there was no issue of the delinquent employee crossing the age of superannuation immediately after the judgment of the Single Bench of the Hon'ble High Court was passed. It was perhaps a case where in spite of there being sufficient service left for the employee, the respondents instead of taking

him back in service proceeded further with the departmental enquiry. Thus, the said judgment in its facts itself is distinguishable from the facts of the present case.

7. In view of the same, this Court is of the opinion that no contempt is made out against the respondents. The contempt petition accordingly stands rejected and the respondents stand discharged from the contempt proceedings.

**Sd/-
P. Sam Koshy
Judge**

Khatai