

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 42 OF 2018

IN

WRIT PETITION NO. 645 OF 2017

SHIRISH AVINASH NAIK DESAI.,

... Petitioner

Versus

I JEYAKUKAR AND 4 ORS.,

... Respondents

Mr. S. G. Desai, Senior Advocate with Mr. Pavithran A.v,
Advocate for hte petitioner.

Mr. Y. Nadkarni and Mr. S. Kamat, Advocates for the
respondent nos.1,3 & 4.

Mr. Tanmai Gawas, Advocate for the respondent no.5.

Coram:- M. S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 11th January 2019

P.C.

In this contempt petition, the petitioner points out that our judgment and order dated 30.7.2018 in Writ Petition No.645/2017 has not been complied with and further efforts are been made to avoid compliance. Mr. Desai learned Counsel for the petitioner points out that by judgment and order dated 30.7.2018, the order promoting respondent no.5 by order dated 4.7.2017 to the post of Assistant Director (EDP) was quashed and set aside. Despite, this, it is only on 7.9.2018 that respondent no.5 was actually reverted to the post of Assistant Manager(EDP). Mr. Desai, learned Senior Counsel points out that even the order dated 7.9.2018 suggest that promotion order

dated 4.7.2017 is being withdrawn only w.e.f. 7.9.2018 when in fact, the formal withdrawal ought to have been from 4.7.2017 itself, since, the promotion order dated 4.7.2017 was expressly quashed and set aside by this Court.

2. Mr. Desai, submits that this is, therefore, a case of willful disobedience of the judgment and order made by this Court.

3. Mr. Nadkarni, learned Counsel for the respondent nos.1, 3 and 4 submits that apologies have been tendered for the delay in reverting the respondent no.5. He points out that review petition had been filed and this was a case of miscommunication and therefore, there was a delay. He submits that there was absolutely no intention to disobey the judgment and order by this Court.

4. Mr. Nadkarni, in the context of order dated 7.9.2018 submits that this order merely states that reversion of the respondent no.5 shall be with immediate effect. However, this does not mean that any validity is sought to be imparted to the service of respondent no.5 between 4.7.2017 and 7.9.2018. He submits that legal effect of this Court quashing the promotion order dated 4.7.2017 is that the said order loses force or efficacy right from 4.7.2017 itself. He submits that the petitioner is clearly misconstruing the office order dated 7.9.2018 to mean otherwise.

5. Taking into consideration the apologies tendered in the matter of delay of reversion of respondent no.5, we do not wish to pursue this contempt petition any further.

6. Besides, we accept the submission of Mr. Nadkarni as recorded above, that the effect of the order dated 7.9.2018 is that respondent no. 5 stands reverted with immediate effect and further, the said order does not mean that the promotion of respondent no.5 w.e.f. 4.7.2017 is imparted any sort of validity in law. Once promotion order dated 4.7.2017 was quashed and set aside by us, there is no question of any party seeking to secure any advantage on the basis of the said order. Since, Mr. Nadkarni on behalf of the respondents has made this position clear, the apprehension expressed by petitioner really does not survive.

7. In the aforesaid circumstances, this contempt petition is disposed of.

PRITHVIRAJ K. CHAVAN, J.

M. S. SONAK, J.