

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 12.03.2020

Coram

THE HONOURABLE MR.JUSTICE T. RAJA

Contempt Petition No.1838 of 2017

1.Sony C.Varghese
2.T.P.Philips
3.George Thomas
4.B.S.Parthasarathy
5.P.V.Subramanian
6.P.V.S.Narasimha Rao
7.P.V.Rajendran
8.T.S.Raju
9.H.Johnson Raja Singh
10.Asok Singh

... Petitioners

Versus

1.D.K.Gayen
Member (Staff),
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi-110 001.

2.R.K.Verma
Secretary,
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi-110 001.

... Respondents



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Prayer: Petition filed under Section 11 of the Contempt of Courts Act 1971 to punish the respondents for willfully disobeying the order dated 30.06.2008 in W.P. No.16752 of 1998 as confirmed by the higher courts.

For Petitioners : Mr.Jayesh B.Dolia

For Respondents : Mr.P.T.Ramkumar,
Standing Counsel for Railways

ORDER

The Contempt Petition has been filed to punish the respondents for willfully disobeying the order dated 30.06.2008 passed by this Court in W.P. No.16752 of 1998.

2.Mr.Jayesh B.Dolia, learned counsel appearing for the petitioners argued that the order dated 23.09.2019 passed by this Court with a specific direction to the respondents to state as to whether the DPC has considered the names from 1986 to 1996 that the petitioners would have been considered in the panel and that the list of the names considered in the DPC held in 2000 be furnished before this Court, have not been complied with.

3.In reply, learned Standing Counsel for the respondents would submit that the order passed by this Court has been properly considered. In

support of his submission, drawing the notice of this Court to the Proceedings dated 26.12.2017 issued by the Deputy Director, Estt. (GP), Railway Board, learned Standing Counsel would submit that the Deputy Director, Estt. (GP) was directed to send a DPC/Review DPC proposal for regular promotion to the post of ASC in Junior Scale/Group 'A' of RPF against year-wise vacancies of 1986 to 1993 in terms of Recruitment Rules, 1994 in compliance of the order dated 18.04.2017 passed by the Hon'ble Supreme Court dismissing the SLP © No.1663 of 2013 against the Judgment dated 12.06.2012 passed by this Court in W.A. No.538 of 2012 along with several documents and he requested to convene a DPC meeting at the earliest to avoid the Contempt Proceedings. Pursuant thereto, the Under Secretary, Union Public Service Commission issued Proceedings to the Secretary, Ministry of Railways, New Delhi on 26.02.2018 stating that among the petitioners, who are appearing in the notionally re-constructed seniority list, the senior most officer is appearing at S.No.105 of the seniority list for the year 1986. Based on the guidelines of DOP&T, the zone of consideration will not be exceeding beyond S.No.58 and that the extended zone of consideration would not go beyond S.No.72 of the notional seniority list prepared by the Ministry. Therefore, none of the petitioners herein could find any place in the zone of consideration in the

years from 1986 to 1993 as the senior most person is at S.No.105 in the notionally framed seniority list, whereas the petitioners are below 150th rank in the seniority list. In these circumstances, the petitioners could not be considered/assessed/ recommended against vacancy years 1986 to 1993 in terms of DOP&T guidelines.

4.This Court also could see from the record that in compliance of the order of this Court, a proposal has been sent to conduct DPC for regular promotion to the post of Assistant Security Commissioner in junior scale Group 'A' of Railway Protection Force against year wise vacancies for the years 1986 to 1993, to the Secretary, Union Public Service Commission on 26.12.2017 and thereupon, the UPSC in letter No.F.No.1/2(7)/2017-AP-4 dated 26.02.2018 addressed to the Secretary, Ministry of Railway Board, has conveyed that the DPC proposal was examined and that the DPC was held in the office of the Commission, in accordance with the Government instructions, as conveyed by the Dopt through its various Official Memorandums. Besides, letter dated 26.02.2018 of UPSC shows that the senior most person is appearing in Sl.No.105, whereas the zone of consideration would not exceed beyond Sl.No.72. Accordingly, when the UPSC has turned down the request, at this stage, Mr.Jayesh B.Dolia, learned

counsel for the petitioner sought permission to implead the Union Public Service Commission.

5. But this Court finds no merit for impleading the Union Public Service Commission, since the senior most person found place in S.No.105 was not even given promotion, therefore, the petitioners who are placed in Sl.No.150 onwards may not be able to reach the zone of consideration.

6. Learned counsel for the petitioners seeks liberty to question the correctness of the Proceedings dated 26.02.2018.

7. The contempt petition stands closed giving such liberty to the petitioners.

SD./-

ASSISTANT REGISTRAR(COMM.CASES)

vga

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/09/06/2020

To

1.The Member (Staff),
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi-110 001.

2.The Secretary,
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi-110 001.



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