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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 23.09.2020

W.P.(C) 661/2020 & CM APPL.1865/2020 (stay)

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

.....Petitioners

versus

R. S. MEENA

.....Respondent

Advocates who appeared in this case:

For the Petitioners : Mr. R.V. Sinha, Advocate

For the Respondent : Mr. Rajat Aneja, Advocate

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

JUDGMENT

SIDDHARTH MRIDUL, J. (Open Court – via Video Conferencing)

1. The present petition under Articles 226 and 227 of the Constitution of India, instituted on behalf of the North Delhi Municipal Corporation (for short 'NDMC'), impugns the order dated 20.12.2019 (hereinafter referred to as the 'subject order') passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal'), in C.P. No. 100/388/2019 in O.A No. 100/4328/2015, whereby, the learned Tribunal, by

way of an interim order, has directed the petitioners herein to treat the appointment of Mr. R.S. Meena, the respondent herein, to the post of Additional Commissioner on ad-hoc basis, forthwith.

2. The short issue that arises for adjudication in the present petition is whether the learned Tribunal, has exceeded its jurisdiction by travelling beyond the four corners of the directions given in the substantive proceeding between the parties and issued supplemental directions, which are *ex facie* beyond the scope of the express directions issued in the original proceeding.

3. We have heard learned counsel appearing on behalf of the parties at length and have perused the impugned order, as well as, the material placed on record.

4. It is axiomatic that, the powers of contempt of Court, vested in the superior courts, by their very nature cast a sacred duty on the latter to exercise the same with utmost care and caution. The Courts cannot and must not, therefore, travel beyond the four corners of the order, of which contempt is alleged to have been committed nor enter into questions that have not been dealt with or decided in the judgement or the order, violation of which is alleged. Only such directions, which

are clearly and unequivocally expressed in the subject order, ought to be taken into account for the purposes of determining whether there has been any disobedience or willful infraction of the same.

5. No further substantive orders or directions that are supplemental to what has specifically been expressed in the subject order, ought to be issued by the learned Tribunal, while exercising its power and jurisdiction in the domain of contempt, since the same is an exercise more appropriately adjudicated in other jurisdictions vested in the forum.

6. In order to effectively adjudicate the issue that arises for consideration in the present writ petition, it would be appropriate and profitable to extract the directions issued by the Tribunal in the substantive proceeding being O.A. No. 100/4328/2015 and the same are extracted in extenso as follows:

“1. This OA, is in a way, continuation of OA No. 1865/2016. It is only when the seniority list which is the subject matter of OA No. 1865/2016 is finalized, that the prayer in this OA can be granted. We disposed of the said OA by fixing the period of three months for finalization of the seniority list.

2. We, therefore, dispose of this OA directing that within two months from the date of finalization of the seniority list, promotion to higher posts shall be effected, in accordance with the prescribed procedure.”

7. A plain reading of the above extracted order leaves no manner of doubt that, the directions originally issued by the learned Tribunal in the substantive proceedings were limited to requiring the NDMC to effect promotion to higher post within a period of two months from the date of finalization of the seniority list, in accordance with the prescribed procedure.

8. It is axiomatic from the proper appreciation and consideration of the above direction that, no consequential direction requiring the NDMC to promote the respondent, was either contemplated or directed in the substantive proceedings, between the parties.

9. It is in that view of the matter that we are of the considered opinion that the impugned interim direction in the pending contempt proceedings, to the NDMC 'to treat the appointment of the respondent to the post of the Additional Commissioner on ad-hoc basis from today' is evidently and decidedly in excess of the jurisdiction vested in it under the provisions of Contempt of Courts Act, 1971.

10. In this behalf, it is observed that the Hon'ble Supreme Court of India in 'Sudhir Vasudeva, Chairman and Managing Director, Oil and Natural Gas Corporation Limited and Ors. v. M. George

Ravishekar and Ors.’ reported as **2014 (3) SCC 373**, whilst considering the scope and ambit of powers vested in the Courts to punish for contempt to correct willful disobedience of their orders has observed as follows:

“**19.** The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, *Jharieswar Prasad Paul v. Tarak Nath Ganguly* [(2002) 5 SCC 352 : 2002 SCC (L&S) 703] , *V.M.*

Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610 : 2006 SCC (L&S) 907] , *Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami* [(2008) 5 SCC 339] and *Union of India v. Subedar Devassy PV*[(2006) 1 SCC 613].

20. Applying the above settled principles to the case before us, it is clear that the direction of the High Court for creation of supernumerary posts of Marine Assistant Radio Operator cannot be countenanced. Not only the courts must act with utmost restraint before compelling the executive to create additional posts, the impugned direction virtually amounts to supplementing the directions contained in the order of the High Court dated 2-8-2006 [*M. George Ravishekeran v. ONGC Ltd.*, WP No. 21518 of 2000, order dated 2-8-2006 (Mad)] . The alterative direction i.e. to grant parity of pay could very well have been occasioned by the stand taken by the Corporation with regard to the necessity of keeping in existence the cadre itself in view of the operational needs of the Corporation. If despite the specific stand taken by the Corporation in this regard the High Court was of the view that the respondents should be absorbed as Marine Assistant Radio Operator nothing prevented the High Court from issuing a specific direction to create supernumerary posts of Marine Assistant Radio Operator. The same was not done. If that be so, the direction to create supernumerary posts at the stage of exercise of the contempt jurisdiction has to be understood to be an addition to the initial order passed in the writ petition. The argument that such a direction is implicit in the order dated 2-8-2006 [*M. George Ravishekeran v. ONGC Ltd.*, WP No. 21518 of 2000, order dated 2-8-2006 (Mad)] is self-defeating. Neither is such a course of action open to balance the equities i.e. not to foreclose the promotional avenues of the petitioners, as vehemently urged by Shri Rao. The issue is one of jurisdiction and not of justification. Whether the direction issued would be justified by way of review or in exercise of any other jurisdiction is an aspect that does not concern us in the present case. Of relevance is the fact that an alternative direction had been issued by the High Court by its order dated 2-8-2006 [*M. George*

Ravishekeran v. ONGC Ltd., WP No. 21518 of 2000, order dated 2-8-2006 (Mad)] and the appellants, as officers of the Corporation, have complied with the same. They cannot be, therefore, understood to have acted in wilful disobedience of the said order of the Court. All that was required in terms of the second direction having been complied with by the appellants, we are of the view that the order dated 2-8-2006 passed in *M. George Ravishekeran v. ONGC Ltd.* [*M. George Ravishekeran v. ONGC Ltd.*, WP No. 21518 of 2000, order dated 2-8-2006 (Mad)] stands duly implemented. Consequently, we set aside the order dated 19-1-2012 passed in Contempt Petition No. 161 of 2010, as well as the impugned order dated 11-7-2012 passed in *Sudhir Vasudeva v. M. George Ravi Shekeran* [*Sudhir Vasudeva v. M. George Ravi Shekeran*, *Sudhir Vasudeva v. M. George Ravi Shekeran*, Contempt Appeal No. 2 of 2012, decided on 11-7-2012 (Mad)] and allow the present appeal.”

11. Consequently, we allow the present writ petition and set aside the impugned order dated 20.12.2019 in C.P. No. 100/388/2019 in O.A No. 100/4328/2015, whilst reserving liberty to the respondent to initiate appropriate proceedings, in accordance with law, to enforce his substantive rights *qua* the subject post.

12. Needless to observe that we have not expressed any opinion on the merits of the subject appointment and the parties are at liberty to assert their respective contentions in a substantive proceeding, that may be instituted on behalf of the respondent, in this behalf, without being influenced by the observations made hereinabove.

13. The present writ petition is disposed of accordingly. The pending application also stands disposed of.

**SIDDHARTH MRIDUL
(JUDGE)**

**TALWANT SINGH
(JUDGE)**

SEPTEMBER 23, 2020
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[Click here to check corrigendum, if any](#)