

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on 17/02/2021****Order Delivered on 10/03/2021****CONT No. 663 of 2020**

- Ashish Agnihotri S/o Shri Prakash Agnihotri, Aged About 40 Years, Occupation - Presently Working as Executive Engineer with CG State Power Distribution Company Limited, R/o -MIG 1/1a, Sector 3, DDU Nagar, Raipur, (CG). Pin – 492001.

---- Applicant**Versus**

- Dr. Kamalpreet Singh Secretary -Government of Chhattisgarh, General Administration Department (Rules), Room No. S-1/19, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District – Raipur, Chhattisgarh. Pin – 492002.

---- Respondent/Contemnor.

For Applicant : Shri Rohit Sharma, Advocate.

For Respondent : Shri Vikram Sharma, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****C A V ORDER****Per Parth Prateem Sahu, Judge**

1. This contempt petition is arising out of the order dated 04.02.2019 passed by this Court in WA No.409/2013 and other connected cases, whereby Rule 5 of the Chhattisgarh Civil Services Promotion Rules, 2003, (for short. 'Rules, 2003') was quashed. The applicant has filed this instant contempt petition raising a ground that respondent has not complied with the order passed by this Court vide impugned order.
2. Learned counsel for the applicant submits that respondent has not passed any order consequent to the impugned order dated 04.02.2019 by initiating re-adjustment including reversion despite lapse of more than sufficient time. After issuance of the legal contempt notice dated

29.06.2020, new Rule 5 has been brought in without doing exercise as mandated by Hon'ble Supreme Court in case of **M. Nagraj & Ors versus Union of India & Ors** reported in **(2006) 8 SCC 212** and **Jarnail Singh versus Lachhmi Narain Gutpa** reported in **(2018) 10 SCC 396**. This Court while disposing of the writ appeal no. 409/2013 with batch of writ petitions, has passed following orders:

- “3. In view of the opinion expressed by the Constitutional Bench of the Hon'ble Supreme Court, all these writ appeals and writ applications stand disposed off and Rule 5 of the Chhattisgarh Civil Services Promotion Rules, 2003 stands quashed. The State Government however is given liberty to rework the Rules or the Policy within the framework of the law laid down by the Hon'ble Supreme Court in **Jarnail Singh** (supra).
4. If any other statutory body or Corporation in the State of Chhattisgarh has provided for or adopted the Promotion Rules, the same will also be hit by the decision in **Jarnail Singh** (supra).”

3. We have heard learned counsel for the respective parties.
4. Perusal of the aforementioned portion of the order under challenge would show that this Court has caused Rule 5 of Rules, 2003 and granted liberty to the respondent in writ petition to rework the rules or the policy within framework of the law laid down by the Hon'ble Supreme Court in case of **Jarnail Singh** (supra). New Rule 5 has been incorporated as pleaded by the petitioner in contempt petition vide Gazette notification dated 22.10.2019, which is stated to be contrary to the direction issued by this Court vide impugned order. Rules, 2003 have been framed exercising powers under Article 309 of the Constitution of India. Respondent-contemnor is not a rule making authority. There is no specific pleading that there was wilful disobedience on the part of Respondent.

5. Learned counsel for the petitioner during the course of arguments has admitted that the order passed by this Court is put to challenge by one Vijay Singh Koraam in SLP(c) diary no. 27039/2020 and the Hon'ble Supreme Court, on 22.01.2021, upon hearing, has directed for maintaining status quo. Learned counsel for the petitioner submitted that consequential action of readjustment including reversion has not been ordered as one of the grounds for filing this contempt petition. The Hon'ble Supreme Court in case of **Dinesh Kumar Gupta v. United India Insurance Company Limited and others** reported in **(2010) 12 SCC 770**, while considering whether there was wilful or deliberate violation of the Court's order, has held thus:

“17. ...In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this Court that *contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance with the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too speculative based on assumption as the Contempt of Courts Act, 1971 clearly postulates and emphasises that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature.*”

6. A person can be hauled up for the contempt for his personal act of deliberate or wilful disobedience of the Court's order.
7. Taking into consideration, the entirety of the facts and circumstances of the case, we do not find any deliberate or wilful disobedience of the order of this Court on the part of Respondent.
8. For the foregoing reasons, contempt petition stands dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Jamal