

N.22S1
151/CL

WPCRC No.222 of 2017
Rana Mukherjee
v.
Madapally Raju & Ors.
in
WPCT No.585 of 2007

14.09.22
SL-02
CT.-32
(S.R.)

Mr. Soumava Mukherjee ... for the petitioner.

Mr. Dhiraj Trivedi, ASG
Mrs. Runu Mukherjee
Mr. Bikash Kr. Singh ... for the respondents.

The present contempt application has been preferred by the petitioner alleging violation of an order dated 10th August, 2016 passed by a Coordinate Bench of this Court in a writ petition being WPCT 585 of 2007. The affidavits, as exchanged by the parties, be kept on record.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that by the order dated 10th August, 2016 the respondents were directed to consider the case of Rana Mukherjee (in short, Rana) for employment on compassionate ground, if necessary, by relaxing the age limit, within a period of eight weeks from the date of the order. It was further directed that while considering Rana's claim, the authorities shall bear in mind the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995 (hereinafter referred to as the said Act of 1995).

He submits that in spite of due communication of

the said order, the alleged contemnors did not comply with the specific directions and mechanically rejected the petitioner's claim by a belated order dated 5th June, 2018, as brought on record by an affidavit-in-opposition affirmed by the alleged contemnor no.3.

He further contends that a perusal of the said order dated 5th June, 2018 would clearly reveal that the authorities have not taken into consideration the provisions of the said Act of 1995.

Drawing our attention to the minutes and score sheets of the Compassionate Appointment Committee (in short, CAC), Mr. Mukherjee submits that pertaining to the self-same riders, different marks have been allotted to the petitioner in different years. No uniform yardstick had been applied towards allotment of marks. Such allotment of marks is also not in consonance with the guidelines. There was thus no transparency in the procedure adopted towards consideration of the claim towards compassionate appointment.

He contends that there had been no faithful implementation of the directions contained in the order dated 10th August, 2016. The alleged contemnors have willfully and deliberately violated the same and as such the alleged contemnors are guilty of contempt. In support of his argument, Mr. Mukherjee has placed reliance upon the judgements delivered in the case of *Sri Subrata Kundu*

& Ors. v. Sri Kshiti Goswami & Ors., reported in 2009 SCC OnLine Cal 2431 and also the judgment delivered by the Hon'ble Supreme Court in the appeal preferred against the said order, as reported in *(2013) 11 SCC 618* and in the case of *T. Sudhakar Prasad v. Govt. of A.P. & Ors., reported in (2001) 1 SCC 516*.

Mr. Trivedi, learned Additional Solicitor General appearing for the alleged contemnors, however, argues that there had been no deliberate or wilful violation of the order passed on 10th August, 2016. The authorities have considered the petitioner's claim five times for the vacancies pertaining to the years 2016-2017, 2017-2018, 2018, 2019 and 2020. While considering the claim towards compassionate appointment, the authorities have followed the procedure, as prescribed under the relevant rules. The allegation of having applied a different yardstick in the case of the petitioner is absolutely unfounded. The petitioner could not come within the zone of consideration and he secured lesser marks than the marks secured by the candidates, who were offered appointment in the existing vacancies. An order has been passed by the competent authority upon considering the petitioner's claim and the validity of such decision cannot be scrutinized and no order or direction supplemental to what has already been expressed, can be issued in exercise of contempt jurisdiction. In support of his

arguments, Mr. Trivedi has placed reliance upon the judgments delivered in the cases of *R.N. Dey & Ors. v. Bhagyabati Pramanik & Ors.*, reported in (2000) 4 SCC 400; *Sudhir Vasudeva, Chairman and Managing Director, Oil and Natural Gas Corporation Limited & Ors. v. M. George Ravishekar & Ors.*, reported in (2014) 3 SCC 373; *State of Himachal Pradesh & Anr. v. Shashi Kumar*, reported in (2019) 3 SCC 653 and *Union of India & Ors. v. Amrita Sinha*, reported in 2021 SCC OnLine SC 1231.

We have heard the learned advocates appearing for the respective parties and considerer the materials on record.

The direction contained in the order dated 10th August, 2016 was towards consideration of the petitioner's claim for compassionate appointment, in accordance with law. The authorities appear to have followed the procedure as prescribed while considering the claim of the candidates including that of the petitioner. The petitioner's claim has been considered in terms of the rules for five years. He did not secure appropriate marks to come within the zone of appointment on compassionate ground. The judgments upon which reliance has been placed by the petitioner are distinguishable on facts. In the said conspectus, it cannot be said that the alleged contemnors have willfully violated the order dated 10th August, 2016.

The Court in exercise of contempt jurisdiction cannot test the correctness of the order passed or give additional direction. In contempt jurisdiction the Court cannot also travel beyond the four corners of the order which is alleged to have been flouted.

It is well-settled that once an order has been passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum.

For the reasons discussed above, the contempt application is dismissed. Rule, if any, stands discharged.

However, it will be open to the petitioner to assail the correctness of the order passed by the alleged contemnors before the appropriate forum.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)