

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4990 OF 2022

Balkrishna Sayaji Rokade	}	Petitioner
Versus		
Mr. Armstrong Changsan	}	Respondent

Mr. Vicky A. Nagrani for the petitioner.

Mr. R. R. Shetty with Mr. A. A. Garge for respondent
no. 1.

**CORAM: DIPANKAR DATTA, CJ
& V. G. BISHT, J.**

DATE: APRIL 27, 2022

P.C.:

1. The Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal", for short) passed an order dated 20th December 2021 refusing to initiate action for contempt while hearing Contempt Petition No. 39 of 2021 filed by the petitioner on the ground that an order dated 16th June 2021 had been passed by the respondents in purported compliance with the earlier order of the Tribunal dated 10th February 2021 while disposing of Original Application No. 693 of 2018 and, therefore, the element of contempt was absent. The Tribunal reserved the liberty of the petitioner to challenge the order dated 16th June 2021 in appropriate proceedings.
2. Mr. Nagrani, learned advocate for the petitioner takes exception to the order by submitting that the Tribunal ought to have set aside the order dated 16th June 2021 in exercise

of its jurisdiction to punish for contempt and grant the petitioner the scale of pay which had earlier been directed by the other Tribunals to be paid to other similarly placed employees. Mr. Nagrani has referred to decisions rendered by the Ernakulam Bench of the Central Administrative Tribunal as well as a Division Bench judgment of the Kerala High Court to drive home his point that the petitioner ought to have been meted similar treatment.

3. Having heard Mr. Nagrani, we find no reason to interfere with the impugned order of the Tribunal. Law has clearly been laid down by the Supreme Court in the decision in **J. S. Parihar vs. Ganpat Duggar and Ors.**, reported in (1996) 6 SCC 291, to the following effect:

"6. ***** The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the willful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In

other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act. *****”

4. Having regard to the fact that the order dated 16th June 2021 affords the petitioner a fresh cause of action, we hold that the Tribunal was justified in dismissing the contempt petition.

5. The writ petition stands dismissed. There shall be no order as to costs.

6. The petitioner shall have the liberty to challenge the order dated 16th June 2021 in appropriate proceedings in accordance with law. All contentions are left open.

SALUNKE
J V

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(V. G. BISHT, J.)

(CHIEF JUSTICE)