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

**WRIT PETITION NO. 6353 OF 2008
WITH
CIVIL APPLICATION NO. 2362 OF 2015
WITH
CIVIL APPLICATION NO. 2239 OF 2015
AND
INTERIM APPLICATION (ST) NO. 8 OF 2021**

The Security Printing and	}	
Mining Corporation of India Ltd.	}	
and Anr.	}	Petitioners
versus		
Pramod Prakash Borade	}	Respondent

Mr. A. A. Kumbhakoni, Advocate General with Ms. Soniya Putta, Ms. Devyani Deshmukh, Ms. Arya Bile and Mr. Manoj Badgujar i/b. M/s. Solomon and Co. for the petitioners in writ petition and for applicant in CAW/2362/2015.

Mr. Kishor S. Patil with Mr. Nikhil M. Pujari, Mr. Pratik Rahade i/b. Mr. P. N. Joshi for the respondent in writ petition and for the applicant in CAW/2239/2015 and IAST/8/2021.

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE :- APRIL 5, 2022

PC: -

1. This writ petition takes exception to an order dated 23rd June 2008 passed by the Central Administrative Tribunal, Bombay Bench (hereafter "the Tribunal", for short) while disposing of Contempt Petition No. 41 of 2007, arising out of

Original Application No. 347 of 2006. The respondents in the contempt petition are the petitioners before this Court. They are aggrieved by the finding rendered by the Tribunal that rejection of the application for appointment of the respondent, Pramod Prakash Borade (hereafter "Pramod", for short) on compassionate ground by the order dated 23rd August 2007 was contemptuous; hence, an opportunity was being granted to the respondents in the contempt petition/petitioners herein to appoint Pramod within a period of three months from date.

2. The contempt petition arose out of an order dated 20th April 2007 passed by an Administrative Member of the Tribunal while disposing of the original application instituted before the Tribunal by Pramod. By such order, the Tribunal directed the respondents in the original application to consider the case of Pramod for compassionate appointment against the vacancies which were available in the year 2001.

3. The primary objection of Mr. Kumbhakoni, learned Advocate General for Maharashtra, appearing for the petitioners (the Security Printing & Minting Corporation of India Ltd. and its General Manager) is that the Tribunal exercised a jurisdiction not vested in it by law by directing appointment of Pramod within three months while hearing a contempt petition. He contends that the Tribunal having directed consideration of the claim of Pramod for appointment on compassionate ground by the parent order dated 20th April 2007, and such claim having been rejected by an order dated 23rd August 2007, the said order afforded a fresh cause of action for Pramod to approach the appropriate forum to have such order set aside on judicial review. It is also contended

that it was not open to the Tribunal in exercise of its jurisdiction to punish for contempt to exercise the power of judicial review qua the order dated 23rd August 2007.

4. Reliance has been placed by Mr. Kumbhakoni on the decisions of the Supreme Court in **J. S. Parihar vs. Ganpat Duggar & Ors.**¹, **Director, Elementary Education & Ors. vs. Pratap Kumar Nayak**² and **Director General, Youth Services and Sports Department & Ors. vs. Sanjay Gupta & Ors.**³ in support of the contention that the Tribunal, in exercise of contempt jurisdiction, could not have granted a relief which was beyond the relief granted by it while disposing of the original application.

5. Opposing the writ petition, Mr. Patil, learned advocate appearing for Pramod could not and did not dispute the proposition of law laid down by the Supreme Court in the aforesaid decisions. However, he brought to our notice that while admitting the writ petition, a coordinate Bench of this Court by order dated 18th June 2009 had restrained the petitioners from appointing any person on compassionate ground without seeking leave of this Court. According to him, documents accessed by Pramod invoking the provisions of the Right to Information Act, 2005 would reveal that several appointments have been made from 2015 onwards. It is, accordingly, prayed that proceedings to punish the petitioners for contempt ought to be drawn up.

¹ (1996) 6 SCC 291

² (1997) 9 SCC 107

³ (2017) 4 SCC 571

6. On the earlier occasion, we had called for an affidavit from the petitioners to explain how appointments could be made in 2015.

7. An affidavit has since been filed. Mr. Kumbhakoni has taken us through the entirety of the affidavit and we express satisfaction that appointments on compassionate ground were not made in the unit where Pramod is claiming appointment on compassionate ground; such appointments have been made in a different unit pursuant to a new scheme of 2012. We, therefore, see no reason to initiate proceedings for contempt.

8. Law is well settled that while exercising the power to punish for contempt, it is not open to a court or tribunal to pass an order, which materially adds to or alters the order for alleged disobedience of which the contempt jurisdiction was invoked. Viewed in the light of the above, it is clear that in the contempt jurisdiction Pramod obtained wider relief than what he obtained in the original jurisdiction. Since the order passed by the Tribunal on the contempt petition dated 23rd June 2008 has the effect of adding to the parent order passed on the original application and is in the teeth of the decisions of the Supreme Court in **Pratap Kumar Nayak** (supra) and **Sanjay Gupta** (supra), the same is indefensible. Also, having regard to the law laid down in **J. S. Parihar** (supra), remedy of Pramod was to approach the appropriate forum to question the decision dated 23rd August 2007 by which his claim for compassionate appointment was once again spurned by the petitioners.

9. In the result, the impugned order of the Tribunal dated 23rd June 2008 stands set aside, with the result that the Contempt Petition No. 41 of 2007 on its file stands dismissed.

10. The writ petition stands disposed of. No costs.

11. In view of disposal of the writ petition, pending applications do not survive and stand disposed of.

12. We make it clear that this order shall not preclude Pramod to approach the appropriate forum in accordance with law to challenge the order dated 23rd August 2007 and to have it set aside. It shall also be open to Pramod to claim that his application for compassionate appointment ought to be decided on the basis of the scheme that was in vogue at the time he applied for compassionate appointment and not on the basis of any subsequent scheme.

13. All contentions on merits are left open.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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