

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

CONTEMPT PETITION NO.130/2021 IN
WRIT PETITION NO.1780/2009(d)

Pradeep s/o Rajkumar Jain

Vs.

Mr.T.Shrinivasan, the Joint Secretary, Ministry of Steel and ors.

Office Notes, Office Memoranda of
 Coram, appearances, Court's Orders
 or directions and Registrar's order

Court's or Judge's Order

Shri Kaustubh Deogade, Advocate for petitioner.
 Shri Masood Shareef, Advocate for respondent nos. 2 to 4.

CORAM :- A.S.CHANDURKAR AND SMT. M.S.JAWALKAR, JJ.

DATE :- MARCH 25, 2022.

On 12th October, 2021 after hearing the learned counsel for the parties, we had passed the following order:

“....

We find from the decision in A. P. State Road Transport Corporation & others versus Abdul Kareem (2005) 6 SCC 36 wherein reference has been made to an earlier decision in A.P. SRTC versus S. Narsagoud (2003) 2 SCC 212 that there is a difference between an order of reinstatement accompanied by a simple direction for continuity of service and the direction where reinstatement is accompanied by a specific direction that the employee shall be entitled to all the consequential benefits which would include the benefit of increments during that period. This Court while granting relief to the petitioner had directed reinstatement in service alongwith continuity of service but without back wages. Though the respondent nos.2 and 3 in the light of aforesaid law may be justified in denying the relief of promotion/increments what has to be seen is whether benefit of continuity in service is actually granted. In the present context continuity of service would include the benefit accrued in favour of the petitioner for purposes of pensionary and other benefits by notionally treating him to be in employment from 12.08.2008 till he was reinstated.

Since the aforesaid position is not clear on record, the respondent nos.2 and 3 shall file an affidavit indicating the manner in which the benefit of continuity of service has been granted to the petitioner.

It is seen that the respondent nos.2 and 3 have subsequently on 08.04.2021 initiated disciplinary proceedings against the petitioner and have thus suspended him from service. The petitioner has sought to challenge that order dated 08.04.2021 in the present contempt petition.

We find that the order dated 08.04.2021 gives a separate cause of action to the petitioner for which he can invoke the appropriate jurisdiction if he is aggrieved by the said action. In the present contempt petition the Court is concerned only with the grievance as regards non-compliance/disobedience of the order dated 04.04.2017 in Writ Petition No.1780 of 2019. It is clarified that prayer clauses (e) to (g) in the contempt petition would not be considered and the petitioner is free to take appropriate steps to seek those reliefs in separate proceedings.

The respondent nos.2 and 3 shall file their affidavit by 28.10.2021.

Stand over to 28.10.2021.”

Pursuant thereto the respondent nos. 2 and 3 have filed their affidavits indicating the manner in which the relief of continuity of service as was directed to be granted in Writ Petition No. 1780/2009 has been granted to the petitioner. The learned counsel for the petitioner however by relying upon the decisions in ***Nandkishore Shravan Ahirrao vs. Kosan Industries (P) Ltd. 2020 SCC Online SC 138*** and ***Kailash Nath Sinha vs. Central Administrative Tribunal and others 2018 (1) ADJ 291*** submits that he ought to be granted notional promotion considering the fact that his juniors have already been promoted.

We find that while deciding Writ Petition No.1780/2009 this Court merely directed reinstatement of the petitioner with continuity in service without back wages. There was no direction that all consequential benefits flowing from the order of reinstatement and continuity of service be granted to the petitioner. It may be noted that the aforesaid judgment was challenged by the petitioner before the Hon'ble Supreme Court by filing SLP(C) 21346/2017. The Hon'ble Supreme Court had on 10.12.2021 partly allowed that appeal and directed an amount of Rs.Eighty Lakhs to be paid to the petitioner within a period of six weeks. It is informed that the aforesaid amount has been paid to the petitioner.

We therefore find that in absence of grant of relief of consequential benefits flowing from the order of reinstatement, the prayer of the petitioner for seeking a notional promotion cannot be considered in these proceedings. The petitioner is free to seek redressal of aforesaid grievance in appropriate proceedings.

We thus find that the order passed by this Court stands complied with. The Contempt Petition is therefore disposed of.

(SMT. M.S.JAWALKAR, J.)

(A.S.CHANDURKAR, J.)

Andurkar..