

Court No. - 18

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2757 of 2019

Applicant :- Ranjeeta Bajpai

Opposite Party :- Sri Sushant Kumar Mishra Secy.Railway Board Rail Bhawan New

Counsel for Applicant :- Birendra Narain Shukla

Counsel for Opposite Party :- Pratyush Chaube

Hon'ble Jaspreet Singh,J.

Heard learned counsel for the petitioner and Sri Ashwani Kumar Singh, learned counsel has filed his vakalatnama for respondent no. 6 which is taken on record.

The instant petition has been preferred alleging willful disobedience of the order passed by the writ court dated 01.08.2018 passed in W.P. No. 16857 (SB) of 2016 (Union of India Vs. Ms. Ranjeeta Bajpai) whereby the writ court had directed the respondents to decide the representation of the petitioner in respect of her grievance for giving compassionate appointment within a period of three weeks from the date a certified copy of the order was served on the Authority concerned.

The learned counsel for the petitioner has also brought on record along with the petition the order dated 15.04.2019 taken by the Railway Board rejecting the claim of the petitioner for compassionate appointment be taken note of.

The submission is that the petitioner claiming compassionate appointment had preferred a petition before the Central Administrative Tribunal which came to be allowed and a direction was issued to the respondents to consider the case of the petitioner.

Being aggrieved, the respondent had preferred a writ petition before a Division Bench of this Court which came to be decided on 01.08.2018. The directions given by the writ court was to the extent that the Full Bench decision of the Case of U.P. Power Corporation, Lucknow Vs. Urmila Devi reported in 2011(2) ADJ 432 wherein widowed daughter-in-law was considered for appointment.

It is further submitted that this aspect was to be considered by the Railway Board in terms of the directions issued by the writ court, however, the respondent Authorities while deciding the

representation of the petitioner moved on a tangent and not only found that the decision of the Full Bench in the case of Urmila Devi (Supra) was not applicable but it also rejected the claim of the petitioner on the ground that much time has lapsed and the immediate succor which was to be provided to the legal heirs/family has also vanished and for the said reason, the representation has been rejected.

The learned counsel for the petitioner has also urged that this ground which is the basis for rejecting the claim of the petitioner was neither raised before the CAT nor before the High Court and for the first time was introduced in the order dated 15.04.2019 while rejecting the claim. It is thus urged that respondents have willfully and deliberately violated the order and disobeyed for which they are liable to be punished.

Sri Ashwani Kumar Singh, learned counsel for the respondent on the other hand submits that the order passed by the writ court only directed the respondents to consider the fresh representation which was to be made by the petitioner within a period of four weeks. The writ court did not point or directed any particular manner in which the order had to be passed except in light of the observations which were made in the order dated 07.08.2018 passed by the writ court.

It is further urged that the order of the writ court was duly considered and the decision of a Full Bench in the case of Urmila Devi (Supra) was also considered by the Railway Board and thereafter the decision was taken on 15.04.2019.

The learned counsel for the respondents further urges that even if an additional ground is taken which renders the claim of the petitioner bad cannot be held to be willful default or disobedience of the order passed by the writ court for the reason that the decision was to be taken in light of the order passed by the writ court where a fresh representation was permitted to the petitioner to be made.

In the aforesaid circumstances, it is submitted that there is no willful or deliberate disobedience and as such the petition deserves to be dismissed.

Having considered the rival submissions and from the perusal of the record, it will be necessary to relevant directions issued by the writ court while passing the order dated 01.08.2018:-

"In the instant matter, Central Administrative Tribunal has passed the order dated 11.08.2016 to consider the claim of the respondent who is daughter in law of the deceased employee/Munna Lal Bajpai, died during the tenure of service and the family is in harness.

Thereafter, the case of the respondent has been rejected by a Committee vide order dated 17.03.2017 in view of the policy/circular of the Railway Board in regard to compassionate appointment which laid down the compassionate appointment can be considered only in respect to son, daughter, widow (or widower) and the said policy/circular of the Railway Board has been framed/issued prior to passing of the judgement by the Full Bench of this Court in the case of U.P. Power Corporation Ltd. (Supra), so taking into consideration the said facts as well as fact that to give compassionate appointment to a dependent of a deceased's family who is in harness after death of the deceased during the tenure of services is a social legislation only to provide rehabilitation of the family in distress and need for its survival.

For the foregoing reasons, we directed the respondent/Smt. Ranjeeta Bajpai to make a fresh representation in respect to her grievances for giving compassionate appointment within a period of three weeks from the date of receiving certified copy of this order, thereafter Railway Board shall consider the same within a period of four weeks, in the light of the observations made hereinabove.

With the above direction, the writ petition is disposed of.

No order as to costs."

From the perusal of the aforesaid directions, this Court finds that a liberty was granted to the petitioner to move a fresh representation raising her grievances for compassionate appointment which was to be considered by the Railway Board within a period of four weeks.

The Court has also perused the order dated 15.04.2019 which has been brought on record along with the contempt petition from running page 32 to 36 of the paper book which is part of Annexure No. 3.

Having noticed the aforesaid, this Court finds that the direction and the observations made by the writ court required the respondents to consider the case of the petitioner noticing the decision of the Full Bench in the case of Urmila Devi (Supra). The order dated 15.04.2019 thus noticed the order as well as the decision of Urmila Devi (Supra). It may be one thing to say that the dictum of the Full Bench may have been wrongly or incorrectly appreciated by the Authorities but that in itself cannot mean that there has been any willful or deliberate disobedience of the order passed by the writ court.

It is also to be noticed that the Contempt Court is to consider the order passed by the writ court, the way it is and it is not permissible to add something which is not mentioned. Prima facie the order of the writ court only directed the respondents to consider the case of the petitioner and decide it noticing the decision of the Full Bench in the case of Urmila Devi (Supra)

which has been taken note of, may be the conclusion is erroneous, however, that may give a rise to a fresh cause of action for the petitioner to assail the matter before the writ court but it cannot be said that the Authorities have willful and deliberately disobeyed the order passed by the writ court.

In view of the aforesaid, this Court does not find that there is any material to suggest that there has been any willful or deliberate disobedience of the order passed by the writ court, accordingly, the petition is dismissed, however, the petitioner shall be liberty of assailing the order, if she so chooses, before the appropriate Forum.

Order Date :- 27.7.2022

Asheesh