

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8845 of 2023

1. The Union of India through the Secretary, Ministry of Information and Broadcasting, Government of India, New Delhi 110001.
2. The Director General, Doordarshan, Doordarshan Bhawan, New Delhi 110001.
3. The Deputy Director (ADMN). Office of Director General, Doordarshan, Doordarshan Bhawan, New Delhi 110001.
4. The Chief Executive Officer, Prasar Bharti, P.T.I. Building, 2nd Floor, Sansad Marg, New Delhi 110001.
5. The Deputy Director (Engineering), Doordarshan Kendra, Patna - 800001.

... .. Petitioner/s

Versus

Satish Kumar son of Sri Madan Mohan Lal, Casual Labour (Group D), Doordarshan Kendra, Chaju Bagh, Patna, Resident of Village/Mohalla- North Patel Nagar, Besides Nala, P.O. - Kesari Nagar, District- Patna - 800024 (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anshuman Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-07-2023

In the present writ petition, petitioners have assailed the order of the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') dated 24.04.2023 passed in C.P./110/2018 (Patna) [Contempt]. The aforementioned C.P./110/2018 is filed for non-compliance of the order dated 27.07.2018 passed in O.A. No. 585 of 2017 by respondent – *Satish Kumar*.



2. The learned counsel for the petitioners submitted that order of the Tribunal dated 27.07.2018 passed O.A. No. 585 of 2017 has been complied while passing order on 02.04.2019 to the extent that respondent – *Satish Kumar* is not eligible to be enlisted with a temporary status and further he is not entitled to absorption/regularization. Based on the order of the Tribunal dated 27.07.2018 passed in O.A. No. 585 of 2017 read with order of the petitioners dated 02.04.2019, respondent - *Satish Kumar* invoked remedy of contempt of Tribunal petition and filed contempt petition bearing C.P./110 /2018.

3. The Tribunal after analyzing factual aspects of the matter proceeded to hold that, *prima facie*, it appears to be a fit case for framing the charges against petitioners and were called on 23.05.2023 to plead on the charges to be framed. Feeling aggrieved by the order of the Tribunal dated 24.04.2023, the present petition is filed.

4. Preliminary issue is whether writ petition is maintainable against an order passed by the Tribunal in contempt petition/proceedings/case or not?

5. The distinction between the orders passed by the Tribunal on matters covered by Section 14 (1) and orders



punishing for contempt under Section 17 of the Administrative Tribunals Act, 1985. Section 14 (1) and Section 17 reads as under:

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal - (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court ⁴⁶***] in relation to—

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation ⁴⁰ [or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other



authority or any corporation ⁴⁷ [or society] or other body, at the disposal of the Central Government for such appointment.

⁴⁰ [Explanation.—For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union territory.

17. Power to punish for contempt - A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971) shall have effect subject to the modifications that—

(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;

(b) the references to the Advocate-General in section 15 of the said Act shall be construed,—

(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and

(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.”

6. Under Section 23 of the Contempt of Courts Act, 1971, the Contempt of Courts (CAT) Rules, 1992 (hereinafter referred to as ‘the Rules, 1992) has been framed, therefore, it is necessary to reproduce Section 23 of the Contempt of Courts Act, 1971 and Rule 13 (b) (i) of the Rules 1992 read with Form No. III. Section 23 of the Contempt of Courts act and Rule 13 (b) (I) of the Rules 1992 reads as under:



“Section 23 - Power of Supreme Court and High Courts to make rules.—The Supreme Court or, as the case may be, any High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.

13 (b)(i) - if it is satisfied that there is a *prima facie* case proceed to frame the charges in Form No. III (subject to modification or addition by the Tribunal at any time)”

7. It is also necessary to take note of Section 19 of the Contempt of Courts Act, 1971. Section 19 reads as under:

“19. Appeals - (1) An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt—

(a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court: Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

(2) Pending any appeal, the appellate Court may order that—

(a) the execution of the punishment or order appealed against be suspended;

(b) if the appellant is in confinement, he be released on bail; and

(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).

(4) An appeal under sub-section (1) shall be filed—



(a) in the case of an appeal to a Bench of the High Court, within thirty days;

(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.”

8. It is necessary to take note of decisions of the Apex Court in the case of ***L. Chandra Kumar vs. Union of India*** reported in (1997) 3 SCC 261 read with ***T. Sudhakar Prasad vs. Govt. of Andhra Pradesh*** reported in (2001) 1 SCC 516. Perusal of paragraph No. 17 in the ***T. Sudhakar Prasad's*** case (cited *supra*), it is evident that Apex Court has taken note of Section 14 (1) and Section 17 of the Administrative Tribunals Act read with Section 19 of the Contempt of Courts Act. In fact, in ***L. Chandra Kumar's*** (cited *supra*) judgment Apex Court has taken note of only in respect to Section 19 of the Administrative Tribunals Act read with Article 226 and 227 of the Constitution.

9. In yet another decision of the Apex Court in the case of ***R. Mohajan vs. Shefali Sengupta*** reported in (2012) 4 SCC 761, challenge before the Apex Court was to any order passed by the Tribunal in a contempt petition wherein the Tribunal directed the contemnors to be present on the next date of hearing for receiving charges of the contempt, Apex Court has held that Supreme Court has jurisdiction. Paragraph Nos. 15, 16 and 17 of the ***R. Mohajan's*** case (cited *supra*) reads as under:



“15. It is clear from the above dictum in L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] that no appeal from the decision of the Tribunal will directly lie before this Court under Article 136 of the Constitution of India, but instead, the aggrieved party has to move the High Court under Articles 226/227 of the Constitution and thereafter from the decision of the Division Bench of the High Court, the aggrieved parties are free to approach this Court. In view of the above direction, though the learned counsel for the respondents is right in contending the same, however, the Constitution Bench had no occasion to consider the order/orders passed by CAT in contempt proceedings.

This extract is taken from R. Mohajan v. Shefali Sengupta, (2012) 4 SCC 761 : (2012) 1 SCC (L&S) 787 : 2012 SCC OnLine SC 311 at page 765

16. The question posed before the Court was that whether the Administrative Tribunals set up under the provisions of the Administrative Tribunals Act, 1985: do they or do they not have power to punish for their contempt?

17. After going into the decision in L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] in detail, this Court has concluded as under: (T. Sudhakar Prasad case [(2001) 1 SCC 516 : 2001 SCC (L&S) 263] , SCC pp. 529-31, para 17)

“17. It is thus clear that the Constitution Bench has not declared the provisions of Article 323-A(2)(b) or Article 323-B(3)(d) or Section 17 of the Act ultra vires the Constitution. The High Court has, in its judgment under appeal, noted with emphasis the Tribunal having been compared to like ‘courts of first instance’ and then proceeded to hold that the status of Administrative Tribunals having been held to be equivalent to courts or Tribunals subordinate to the High Court the jurisdiction to hear their own contempt was lost by the



Administrative Tribunals and the only course available to them was either to make a reference to the High Court or to file a complaint under Sections 193, 219 and 228 IPC as provided by Section 30 of the Act. The High Court has proceeded on the reasoning that the Tribunal having been held to be subordinate to the High Court for the purpose of Articles 226/227 of the Constitution and its decisions having been subjected to judicial review jurisdiction of the High Court under Articles 226/227 of the Constitution, the right to file an appeal to the Supreme Court against an order passed by the Tribunal punishing for contempt under Section 17 of the Act was defeated and on these twin grounds Section 17 of the Act became unworkable and unconstitutional. We do not find any basis for such conclusion or inference being drawn from the judgments of this Court in Supreme Court Bar Assn. [Supreme Court Bar Assn. v. Union of India, (1998) 4 SCC 409] or L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] or any other decision of this Court. The Constitution Bench has in so many words said that the jurisdiction conferred on the High Courts under Articles 226/227 could not be taken away by conferring the same on any court or Tribunal and jurisdiction hitherto exercised by the High Court now legislatively conferred on Tribunals to the exclusion of the High Court on specified matters, did not amount to assigning Tribunals a status of substitute [Ed.: The words “substitute”, “additionally” and “supplementally” are emphasised in original also.] for the High Court but such jurisdiction was capable of being conferred additionally [Ed.: The words “substitute”, “additionally” and “supplementally” are emphasised in original also.] or supplementally [Ed.: The words “substitute”, “additionally” and “supplementally” are emphasised in original also.] on any court or Tribunal which is not a concept strange to the scheme of the Constitution more so in view of Articles 323-A and 323-B. Clause (2)(b) of Article 323-A specifically empowers Parliament to enact a law



specifying the jurisdiction and powers, including the power to punish for contempt, being conferred on the Administrative Tribunals constituted under Article 323-A. Section 17 of the Act derives its legislative sanctity therefrom. The power of the High Court to punish for contempt of itself under Article 215 of the Constitution remains intact but the jurisdiction, power and authority to hear and decide the matters covered by sub-section (1) of Section 14 of the Act having been conferred on the Administrative Tribunals the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the High Court to punish for contempt of itself in the matters now falling within the jurisdiction of Tribunals if those matters would have continued to be heard by the High Court has now been conferred on the Administrative Tribunals under Section 17 of the Act. The jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act, 1971. The need for enacting Section 17 arose, firstly, to avoid doubts, and secondly, because the Tribunals are not 'courts of record'. While holding the proceedings under Section 17 of the Act the Tribunal remains a Tribunal and so would be amenable to the jurisdiction of the High Court under Articles 226/227 of the Constitution subject to the well-established rules of self-restraint governing the discretion of the High Court to interfere with the pending proceedings and upset the interim or interlocutory orders of the Tribunals. However any order or decision of the Tribunal punishing for contempt shall be appealable only to the Supreme Court within 60 days from the date of the order appealed against in view of the specific provision contained in Section 19 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. Section 17 of the Administrative Tribunals Act is a piece of legislation by reference. The provisions of the Contempt of Courts Act are not as if lifted and incorporated in the text of the



Administrative Tribunals Act (as is in the case of legislation by incorporation); they remain there where they are, yet while reading the provisions of the Contempt of Courts Act in the context of Tribunals, the same will be so read as to read the word 'Tribunal' in place of the word 'High Court' wherever it occurs, subject to the modifications set out in Section 17 of the Administrative Tribunals Act. Section 19 of the Contempt of Courts Act, 1971 provides for appeals. In its text also by virtue of Section 17 of the Administrative Tribunals Act, 1985 the word 'High Court' shall be read as 'Tribunal'. Here, by way of abundant caution, we make it clear that the concept of intra-Tribunal appeals i.e. appeal from an order or decision of a Member of a Tribunal sitting singly to a Bench of not less than two Members of the Tribunal is alien to the Administrative Tribunals Act, 1985. The question of any order made under the provisions of the Contempt of Courts Act, 1971 by a Member of the Tribunal sitting singly, if the rules of business framed by the Tribunal or the appropriate Government permit such hearing, being subjected to an appeal before a Bench of two or more Members of the Tribunal therefore does not arise. Any order or decision of the Tribunal punishing for contempt is appealable under Section 19 of the Act to the Supreme Court only. The Supreme Court in L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] has nowhere said that orders of the Tribunal holding the contemnor guilty and punishing for contempt shall also be subject to judicial scrutiny of the High Court under Articles 226/227 of the Constitution in spite of remedy of statutory appeal provided by Section 19 of the Contempt of Courts Act being available. The distinction between orders passed by the Administrative Tribunal on matters covered by Section 14(1) of the Administrative Tribunals Act and orders punishing for contempt under Section 19 of the Contempt of Courts Act read with Section 17 of the Administrative Tribunals Act, is this: as against the former there is no remedy of appeal statutorily provided, but



as against the latter statutory remedy of appeal is provided by Section 19 of the Contempt of Courts Act itself.” (emphasis supplied)”

10. Reading of Section 14 (1) and 17 of the Administrative Tribunals Act, 1985 read with Rule 13 (b) (i) of Contempt of Courts (CAT) Rules, 1992 and Form No. 3 and Section 23 and 19 of Contempt of Courts Act, 1971, High Courts have no jurisdiction to entertain writ petition against orders or proceedings of the Tribunal in a contempt of Tribunal petition.

11. In the light of these facts and circumstances, petitioners have not made out a case so as to interfere with the impugned order dated 24.04.2023 passed in CP/110/2018 (Patna) [Contempt], we are not inclined to entertain the present petition.

12. With the above observations the present writ petition is, therefore, dismissed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2023
Transmission Date	NA

