

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5459 OF 2023

Ram Naresh Paswan
V/S

....Petitioner

Union of India
through the General Manager & Ors.

....Respondents

...

Mr. Samir Singh for the Petitioner.

...

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATE : 18 APRIL 2023.

P.C.:

1 The present Writ Petition is filed against the order of the Tribunal dismissing the Contempt Petition.

2 The learned Advocate for the Petitioner submits that the Petitioner had filed Original Application bearing No.395 of 2021 challenging the provisional select panel dated 10 June 2021. On or about 14 July 2021 the Tribunal admitted the Original Application by issuing notice on Original Application to all Respondents. The next date was fixed on 2 September 2021.

3 Under the subsequent order dated 5 May 2022 the Divisional Office, Personnel Branch, Mumbai, CSMT cancelled the provisional select panel and prepared fresh one. According to the Petitioner the same would tantamount to contempt under sub section 4 of section 19 of the Administrative Tribunals

Act (**the Act**). The Respondent was precluded from taking any further action as matter was subjudice before the Tribunal.

4 The learned Counsel for the Petitioner strenuously contends that the procedure before the Tribunal is that once the notice is issued after hearing, the same amounts admission. This aspect was considered by the Tribunal while issuing notice on Contempt Petition. The Tribunal while issuing notice on the Contempt Petition discussed in detail the procedure and practice adopted by the Tribunal. The Tribunal while issuing notice on Contempt Petition came to the conclusion that the Original Application is admitted and subsequently the Respondent has cancelled the select panel which was subject matter of consideration before the Tribunal. The learned Counsel submits that even the Respondent did not raise the grievance that the Original Application was not admitted. This aspect ought to have been considered by the Tribunal while passing the impugned order rejecting the Contempt Petition.

5 We have considered the submissions canvassed by the learned Advocate for the Petitioner, so also we have gone through the orders passed in Contempt Petition.

6 It is not disputed that notice was issued by the Tribunal on the Original Application filed by the Petitioner on 14 July 2021. On or about 5 May 2022 the

Divisional Office, Personnel Branch, Mumbai, CSMT cancelled the provisional select panel and prepared a fresh one.

7 For invoking the contempt jurisdiction the party has to demonstrate a willful and wanton disobedience on the part of the Respondents to the orders passed by the Tribunal. Mere infraction of a provision would not tantamount contempt unless and until it is demonstrated that the said act is willful or wanton and done intentionally with capricious motive. We also do not agree with submission of Petitioner about interpretation of section 19(4) of the Act. There is no statutory remedy provided against panel for promotion.

8 While passing the impugned order the Tribunal has observed that the Respondents were under impression that the matter is not admitted and had bonafidely cancelled the select panel that was impugned by the Petitioner.

9 As the Tribunal has come to the conclusion that it is not the case of willful disobedience, we do not find any error committed by the Tribunal in not entertaining the Contempt Petition. Even otherwise the Petitioner has right to assail the fresh panel as permissible under the statute. The Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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signed by
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KATKAM
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