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Cont.Petn.No.1133 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

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All India Association of Central Excise Gazetted
Executive Officer Association,
rep. by its President B.Chandramouli,
No.20, Ramanujam Street, T.Nagar,
Chennai 600 017.

... Petitioner

Vs.

1. Ajay Bhushan Pandey, Revenue Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi 110 001.

2. M.Ajit Kumar, Chairman,
Central Board of Excise and Customs,
North Block, New Delhi 110 001.

3. G.V.Krishna Rao, Chief Commissioner of Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai 600 034.

... Respondents



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Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the respondents for willful disobedience of the order passed by this Court in W.P.No.5611/2017 dated 25.04.2017.

For Petitioner : Mr.V.Vijayshankar
For Respondents : Mr.AR.L.Sundaresan,
Additional Solicitor General,
for Mr.Rajnish Pahiyil

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Contempt Petition has been filed by the All India Association of Central Excise Gazetted Executive Officer Association to punish the respondents for willful disobedience of the order passed by this Court in W.P.No.5611/2017 dated 25.04.2017.

2. The learned counsel for the petitioner submitted that, the present contempt petition has been filed, for non compliance of the order passed by this Court in respect of the members of the petitioner association, since the



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respondents have revised the seniority by applying N.R.Parmar's case, only in respect of the individuals, who were the applicants in the original applications before the Tribunal. Therefore, he seeks for implementation of the order passed by this court to the members of the petitioner association.

3. It is vehemently argued by the learned Additional Solicitor General appearing for the respondents that, the order of the Tribunal is very clear, directing the authorities concerned to draft a seniority list following the N.R.Parmar case and also the order in O.A.741 and 692/2013 of the Tribunal in Mumbai Bench, which was confirmed by Mumbai High Court, by giving seniority to the applicants from the date of initiation of recruitment process. Therefore, the Tribunal has passed the above order only in favour of the applicants/individuals. He further submitted that the Association was impleaded as ninth respondent in the above said O.A.No.1237/2016, wherein, the association had sought to vacate the interim order granted by the Tribunal, however, now, by filing this contempt petition, has taken a different stand and sought to implementation of the



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order. Further more, this contempt petition has been filed after a lapse of 3 years from the date of order in W.P.No.5611/2017 on 25.04.2017 and hence it is barred by limitation. Hence, he prayed for dismissal of the contempt petition, as it is not maintainable.

4. Heard the learned counsel for the petitioner and the learned Additional Solicitor General appearing for the respondents and we have perused the materials on record.

5. Originally, three persons, namely P.Bharathan, R.Mahendran, and S.H.Karthikeyan had filed O.A.No.1237/2016 before the Central Administrative Tribunal, Madras Bench seeking to quash the impugned orders; and consequently direct the respondents to revise the seniority list of Inspectors of Central Excise of Direct Recruits and Promotee officers by impleading the judgment of the Hon'ble Supreme Court in N.R.Parmar's case with respective effect; and to place them at appropriate slots in the revised seniority list of Inspectors of Central Excise, taking into account their recruitment year i.e. 1983; consequent refixing of seniority in the



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seniority list of superintendents; and also to consider their name for promotion to the grade of Assistant Commissioner of Central Excise. In that application, the present petitioner association was subsequently impleaded as ninth respondent.

6. The above application in O.A.No.1237/2016 was heard together along with connected applications and all the applications in O.As.No.1237/2016, 1454/2015 and 1536/2016 were allowed by the Tribunal, vide common order dated 10.01.2017. Challenging the above said order, the Department had filed W.P.Nos.5611 to 5613 of 2017 and the same were dismissed by this Court, vide order dated 25.04.2017. Now, to implement the order of the court, contempt petition has been filed.

7. The present contempt petition has not been filed by the petitioner in the writ petition in W.P.No.5611/2017 as well as in O.A.No.1237/2016, whereas, filed by the Association, who is the ninth respondent in the above said proceedings to implement the order of the Court by the Department as far as its members concerned. At this juncture, it is to be mentioned that if at



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all the members of the association is having any grievance, it is for them to approach the authorities concerned seeking remedy and on such request made by the individual, it is for the respondent concerned to consider the same. Therefore, we are of the view that, by way of filing contempt petition, the petitioner association cannot seek remedy to implement the order of the court in respect to its members also. As such, we are not inclined to entertain this contempt petition.

8. Accordingly, the contempt petition is dismissed.

(D.K.K.J.)

(P.B.B.J.)

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