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Sub.Appl(OS).No.555 of 2024

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in

Cont.P.No.665 of 2024

J.SATHYA NARAYANA PRASAD,J.

The petitioner in this Contempt Petition has filed a writ petition in W.P.No.2468 of 2020 before this Court to quash the order of the third respondent vide letter No.287/Ni.P.2/Ni.U.2//Ko.Pension/2019, dated 17.09.2019 and to direct the respondents to include the petitioner under old pension scheme with GPF, which was existing prior to the introduction of the Contributory Pension Scheme. This aforesaid writ petition was allowed by this Court on 29.09.2023 with a direction to include the name of the petitioner under old pension scheme, within a period of eight weeks from the date of receipt of a copy of this order. However, the same was not complied till date. Hence, this contempt petition.

2. This Court vide its order dated 12.03.2024 admitted the contempt petition and directed the respondents to comply the aforesaid order dated 29.09.2023 on or before 26.03.2024 and adjourned the matter to 26.03.2024. In the order itself, it is clearly stated that if the same is not complied, the respondents will be directed to appear in person before this Court on the next date of hearing.

3. On the next date of hearing i.e., on 26.03.2024, learned standing



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counsel appeared on behalf of the respondents sought time to comply the order dated 29.09.22023. Hence, this Court granted one week time and adjourned the matter to 18.04.2024. Again, when the matter was taken up for hearing on 18.04.2024, learned standing counsel appearing for the respondents sought adjournment to comply the order. This Court taking a lenient view, granted time to comply the order and directed the Registry to list the case on 05.06.2024 under the caption “For Reporting Compliance”.

4. Today, when the matter was taken up for hearing, learned standing counsel appearing for the respondents has filed an affidavit dated 05.06.2024 stating that “due to unavoidable circumstances the respondents are not in a position to appear before this Court today”. There is no specific reason stated by the respondents for not appearing before this Court. Moreover, the said affidavit is also not filed by the contemnors and it has been filed by the Personal Officer to the Chief Engineer/second respondent, which cannot be countenanced by this Court. However, learned standing counsel appearing on behalf of the respondents seeks one more opportunity to comply the order dated 29.09.2023.

5. When the Contempt Petition was came for up admission on



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12.03.2024, learned Standing Counsel took notice on behalf of the respondents and requested time for compliance on 26.03.2024. Thereafter, on 26.03.2024, 18.04.2024, 25.04.2024 and 05.06.2024, learned Standing Counsel for the respondents requested only time for compliance of the order passed by this Court in W.P.No.2468 of 2020 dated 29.09.2023.

6. Considering the submission made by the learned standing counsel appearing for the respondent, list the case on 10.06.2024 under the caption “For Orders”. It is made clear by this Court, if the order dated 29.09.2023 is not complied before 10.06.2024, no further time will be granted and this Court will proceed with a case and pass appropriate orders.

7. When the matter was taken up for hearing on 10.06.2024, the following orders was passed:-

“Both learned counsels are present.

2. The contempt petition was filed on 07.02.2024, whereas the writ appeal along with the condone delay petition was filed on 13.02.2024.

3. It is clear and evident that intentionally the respondents are not complying with the orders of this Court and in order to evade compliance of the order, the writ appeal has been belatedly filed along with condone delay of



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42 days.

4. *Learned standing counsel appearing for the respondents is directed to furnish list of officers with their designations who are responsible for not filing the appeal on time.*

5. *Post the matter on 14.06.2024.*”

8. It is pertinent to note that the learned Standing Counsel appearing for the respondents for the first time only on 10.06.2024 submits that the Writ Appeal has been filed vide W.A.Sr.No.18637 of 2024 with the petition to condone the delay in filing the Writ Appeal.

9. When the matter was taken up for hearing on 14.06.2024, the learned Standing Counsel appearing for the respondents submitted that the First Bench of this Court has directed the respondents to file a Modification Petition and the counsel requested time for filing the petition and the matter was adjourned to 21.06.2024. Again on 21.06.2024, learned Standing Counsel for the respondents requested time and it was adjourned to 28.06.2024.

10. Again, the matter was listed on 28.06.2024, the modification petition was filed by the respondents along with the memo to dispense with the



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appearance of the respondents in future and the learned counsel appearing for the petitioner submitted that he wanted to file a detailed counter with regard to the Modification Application and the matter was adjourned to 09.07.2024.

11. It is made clear from the date i.e, 10.06.2024, the matter was not listed for compliance. Thereafter, on subsequent dates i.e., 14.06.2024, 21.06.2024, 28.06.2024 and 09.07.2024, the matter was posted under the caption “for orders”.

12. In the affidavit filed in support of the Sub.Appl (Modification Petition) No.555 of 2024 by the second respondent, wherein, it is stated in Paragraph No.3 that when the Contempt Petition came up for hearing on 26.03.2024, that the representation was made to that effect with the Writ Appeal has been filed in W.A.Sr.No.18637 of 2024 on 13.02.2024 and requested to adjourned the matter for four weeks to bring the Writ Appeal for hearing is a totally incorrect and a false statement. No such submission was made before this Court and the same is evident from the submissions recorded in the adjudication order of this Court on each hearing dates.

13. In this contempt petition right from the first hearing in the month



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of March 2024, seven adjournments were given out of which four adjournments (till 10.06.2024) were given for reporting compliance of the order passed by this Court.

14. Whatever is stated from paragraph Nos.3 to 7 (except in paragraph No.3, where the Hon'ble Apex Court judgment has been referred) is contemptuous and the second respondent is liable to be punished for perjury.

15. However, this Court taking a lenient view, does not want to initiate any *suo motu* proceedings for perjury against the second respondent.

16. In view of the above, factual matrix of the case the Sub.Appl.No.555 of 2024 (Modification Petition) in contempt petition No.665 of 2024 and the memo to dispense with the appearance of the respondents in future stands dismissed.

17. The Registry is directed to list the case under the caption “for reporting compliance” on 07.08.2024.



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WEB COPY 18. List this case on 07.08.2024.

02.08.2024

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