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11.07.2025
Ct. No. 11
rrc

CPAN 434 of 2024
(Sri Sanjit Karmakar Vs. Shri Anil Kumar
Mishra & Ors.)
in
WP.CT 113 of 2023

Mr. Saptarshi Roy
Ms. Kakali Das Chakraborty
.... For the petitioner

Mr. Kalyan Kumar Chakraborty
Mr. Gopal Krishna Sarkar
**..... For the alleged contemnors/
respondents**

The present contempt application has been preferred alleging violation of an order dated 5th October, 2023 passed by this Court in the writ petition being WP.CT 113 of 2023.

Mr. Roy, learned advocate appearing for the petitioner submits that in the order dated 5th October, 2023, it was the specific direction of this Court to consider the petitioner's claim afresh towards regularization or re-engagement or towards incorporation of his name in the reserved list as referred to under Clause 3(c) and 3(d) of the circular dated 9th June, 2010, moreso when his service was not terminated due to unsatisfactory service/conduct/behavior. In spite of such specific direction the alleged contemnor no.3 rejected the petitioner's claim by a cryptic order dated 12th February, 2024 placing reliance upon a Railway Board Circular being RBE No. 102 of 2020.

According to Mr. Roy, the said RBE No. 102 of 2020 was neither brought on record in the proceedings before the learned Tribunal nor before this Court in the writ petition.

The RBE No. 102 of 2020 was issued on 1st December, 2020 and the same has no manner of application in respect of the petitioner's claim moreso when the said circular cannot be said to have been given any retrospective effect.

Mr. Roy strenuously argues that the petitioner's claim stands fortified by the Indian Railway Establishment Manual wherein it has, *inter alia*, been provided that it is obligatory on the part of the railway authorities to maintain a register recording the names of all substitutes whenever employed according to the unit of recruitment strictly in the order of their employment, at the time of their initial engagement for regularization or re-engagement.

Mr. Chakraborty, learned advocate appearing for the alleged contemnors, however, disputes the contention of Mr. Roy and submits that there had been no deliberate or intentional violation of the order of this Court. The alleged contemnor no.3 had considered the petitioner's claim strictly in consonance with the order passed by this Court.

He contends that the order dated 12th February, 2024 is a reasoned one. All possibilities towards incorporation of the petitioner's name in the reserve list were explored and due to non-existence of the post of Bungalow Peon, the petitioner's claim could not be allowed on the basis of the extant rules.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

While dealing with an application for contempt the Court cannot traverse beyond its order or give any additional

direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. Once an order is passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum.

In view thereof and as we do not find any material to infer that the alleged contemner had deliberately and intentionally violated the order of this Court, we are not inclined to interfere in contempt.

The contempt application being CPAN 434 of 2024 is, accordingly, dismissed.

However, it is made clear that the petitioner would be at liberty to challenge the impugned order passed by the alleged contemnor no.3 before the appropriate forum, if so advised and in accordance with law.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)