

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CONTEMPT CASE No.369 OF 2016

Between:

K. Gopal, S/o Late K. Venkatappa, Hindu,
Aged 46 years, working as Driver (LV) (NMR),
C & B Sub Division No. I, N.S.R.S. Srisailam
Project, Kurnool District.

... Petitioner

And

Sri I.V.R. Krishna Rao, I.A.S, Chief
Secretary, State of Andhra Pradesh,
Secretariat, Hyderabad – 500 022 and twelve
others.

... Respondents

Counsel for the petitioner	: Sri E.Venkata Rao
Counsel for respondents	: GP for Irrigation and CAD, GP for GAD, Sri G.V.S.Kishore Kumar, Sri C.Sumon and Sri M.V.K. Naidu

ORDER

The above contempt case is filed complaining the violation
of order dated 10.08.2015 in W.P.No.7428 of 2008.

2. Heard Sri Koteswara Rao, learned counsel representing
Sri E.Venkata Rao, learned counsel for the petitioner and Sri

C.Sumon, learned counsel appearing for respondent No.7 & 8 and Sri V.K.Naidu, learned counsel appearing for respondent Nos.9, 10 & 12 and Sri G.V.S Kirhsore Kumar, learned counsel appearing for respondent No.13.

3. The writ petition is filed seeking following relief :

“.....to issue a writ or mandamus or any other appropriate writ or order directing the prayed appropriate writ or order directing the State Government to regularize the petitioners in the regular N.M.R work charged establishment N.S.Reddy Sagar Project, Dam Maintenance Circle, of the Irrigation Department of the State Government of Andhra Pradesh and give posting to the petitioners for absorbing them in the N.S.Reddy Sagar Project, Dam Maintenance Circle with back wages and other benefits that accrued and pass such order or orders...”

4. The said writ petition was disposed of on 10.08.2015. The operative portion of the writ petition is as follows:

“Sri I.V.Radha Krishna Murthy, learned counsel further states that the respondents thereupon issued instructions for regularising the services of the workmen who were the petitioners in W.P.No.32522 of 1997 and that his clients, standing n the same footing, would be entitled to the same relief.

Learned Government Pleader for Irrigation appearing for the respondent authorities fairly concedes this position.

In that view of the matter, for reasons alike as were stated in the common judgment dated 25.10.2013 in W.A.Nos.393 of 2004 & 520 of 2008 and W.P.Nos.24024 and 24025 of 2010 and in terms thereof, this writ petition is allowed directing the respondents to regularise the services of the petitioners in the establishment of the Neelam Sanjeeva Reddy Sagar Project, Dam Maintenance Circle, Srisailam, Kurnool District.”

5. The above contempt case is filed complaining non-implementation of the order referred to *supra*. Pending contempt case, respondent No.9 issued G.O.Rt.No.28, Water Resources (SER.IV) Department, dated 23.01.2023. The operative portion of G.O.Rt.No.28 is as follows:

“After careful examination of the matter, Government have considered the proposal of the Superintending Engineer, Dam Maintenance Circle, NSRS Srisailam Project, Srisailam Dam East, Nandyal District, and hereby accord permission to the Engineer-in-Chief (IW), Water Resources Department, A.P., Vijayawada to regularize the services of Sri T.Venugopal Krishna, Sri M.Prasad and Sri A.Cehnnaiiah, NMR

Workers against the proposed posts of Office Subordinates i.e., Roster Point Nos.68-BC-D, 73-O.C. and 91-SC respectively in terms of G.O.Ms.No.212, Finance (PC.III) Department, Dated: 22.04.1994 from prospective date as per circular Memo No.573/225/A3/PC.III/97, dt.01.09.1997, and also the condition that the vacancies are clear, regular and continued from time to time and no senior eligible person is overlooked/omitted.”

6. Learned counsel for the petitioner would submit that the word ‘prospective’ used in G.O.Rt.No.28, itself amount to contempt and hence the respondents are liable to be punished.

7. In **J.S.Parihar v. Ganpat Duggar and Others**¹, the Hon’ble Apex Court observed as under:

“...once there is an order passed by the Government on the basis of the directions issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the

¹ (1996) 6 SCC 291

order. After re-exercising the judicial review in contempt proceedings, afresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act. ...”

8. Since a reasoned order was passed *vide* G.O.Rt.No.28 dated 23.01.2023 by respondent No.9, the contention of learned counsel for the petitioner that the respondents ought not have used word ‘prospective’ in the said G.O.Rt.No.28, and that itself would amount to contempt and hence the respondents/contemnors are liable to be punished falls to ground. In fact, the authority passed a reasoned order and hence, the respondents are not liable to be punished Sections 10 to 12 of the Contempt of Courts Act. If the petitioner is aggrieved, the petitioner has to challenge the correctness of the order.

9. In view of the discussion *supra*, this Court does not find any violation of order dated 10.08.2015, by the respondents.

10. Accordingly, the Contempt Case is closed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand dismissed.

JUSTICE SUBBA REDDY SATTI

Date : 16.02.2024
KAS

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