

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

CONTEMPT PETITION NO. 200/00041/2018
(IN OA No.200/00556/2016)

Jabalpur, this Wednesday, the 27th day of February, 2019

HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. D.K.Rai, S/o Late Shri A.L.Rai, Aged about 61 years,
Scientist-D (Retd.), Central Ground Water Board,
NCR, Bhopal 462011 (M.P.)
 2. S.C.Paranjpe, S/o C.V.Paranjpe, Aged about 59 years,
Scientist-D, Central Ground Water Board, NCR,
Bhopal -462011 (M.P.)
 3. Devendra Joshi, S/o Shri B.K.Joshi, Aged about 59 years,
Scientist-D, Central Ground Water Board, NCR,
Bhopal -462011 (M.P.)
 4. B.P.Singh, S/o Shri R.S.Singh, Aged about 59 years,
Scientist-D, Central Ground Water Board, NCR,
Bhopal -462011 (M.P.)
 5. S.K.Bhatnagar, S/o Shri B.P.Bhatnagar, Aged about 58 years,
Scientist-D, Central Ground Water Board, NCR,
Bhopal-462011 (M.P.).
- PETITIONERS**

(By Advocate – Shri Swapnil Ganguly)

Versus

1. Shri K.C.Naik, Chairman,
Central Ground Water Board,
Bhujal Bhawan, N.H. IV, Faridabad,
Haryana-121001.
2. Shri Parvinder Singh (Retd.), Regional Director,
Central Ground Water Board,
R/o HIG 32, Sterling Castles, Hoshangabad Road,
Bhopal (M.P.).

3. Dr.S.C.Singh, Head of Office,
Central Ground Water Board,
North Central Region, Block No.1, 4th Floor,
Paryawas Bhawan,
Bhopal-462011 (M.P.)

4. Shri U.P.Singh, Secretary,
Ministry of Water Resources, Shram Shakti Bhawan,
Rafi Marg, New Delhi-110 001

- RESPONDENTS

(By Advocate – Shri D.S.Baghel)

ORDER

By Ramesh Singh Thakur, JM-

This petition has been filed by the petitioners under Section 17 of the Administrative Tribunals Act, 1985 for initiating contempt proceedings against the contemnors whereby the contemnors have not complied the order passed by this Tribunal in Original Application No.200/00556/2016 dated 01.05.2018 and the said act is deliberate obedience of the order passed by the Tribunal.

2. The petitioners had approached this Tribunal by filing Original Application No.200/00556/2016 seeking direction to the respondent-authorities to grant the benefit of exercise of option under FR 22(1)(a)(i) for fixation of pay after promotion from the post of Scientist-C to Scientist-D.

3. In Original Application No.200/00556/2016 the Tribunal has passed the order on 01.05.2018 (Annexure C-1). The operative portion of the said order is as under:-

“(6). Accordingly, the applicants are granted two weeks’ time from today to submit their option of pay fixation as per FR 22 (i)(a)(1) for the post of Scientist C&D. The respondents on their turn should take further necessary action for pay fixation and grant of arrears within a further period of 60 days”.

4. The petitioners have exercised their option as per direction of this Tribunal within a period of two weeks. Copy of one of the option exercised by the petitioners is annexed as Annexure C-4. Now, the respondents have passed the order dated 19.06.2018 (Annexure C-5) and the pay of the petitioners have been fixed in a lower side. It is the specific submission of the petitioners that the pay fixation vide Annexure C-5 is not as per order passed by this Tribunal vide Annexure C-1.

5. The respondents have filed the response to the contempt petition. They have submitted that the respondents have highest regard for the order passed by the Tribunal and they cannot even think of disobeying the same. It has been further submitted that without offering any justification for the act complained of, the order of the Tribunal has been complied with. It has been further submitted that after receiving the option of pay fixation as per FR 22(1)(a)(i) the respondents have passed the office orders Nos. 92, 99-102 of 2018 dated 29.06.2018 (Annexures R-1 to

R-5) in respect of all the petitioners. So, the respondents have complied with the order of the Tribunal in letter and spirit.

6. We have heard the learned counsel of both the parties and have also gone through the pleadings of the respective parties and the documents annexed therewith.

7. From the pleadings as per Annexure C-1, this Tribunal has disposed of the Original Application No. 200/00556/2016 with the following directions:

“Accordingly, the applicants are granted two weeks’ time from today to submit their option of pay fixation as per FR 22 (i)(a)(1) for the post of Scientist C&D. The respondents on their turn should take further necessary action for pay fixation and grant of arrears within a further period of 60 days”.

8. From the response of the respondents it is also clear that the respondents have passed the orders vide Annexures R-1 to R-5 in compliance of the order passed by this Tribunal after receiving the option from the petitioners.

9. The submission of the counsel for the petitioners is that the orders passed vide Annexures R-1 to R-5 are contrary to the order passed by this Tribunal.

10. On the other side, the counsel for the respondents has relied upon a judgment of a Full Bench of the Hon’ble Supreme Court in the matters of **J.Parihar Vs. Ganpat Duggar and others**, (1996) 6 SCC 291, whereby

the Hon'ble Apex Court has clearly held that the an order passed on the basis of directions issued by the court is a fresh cause of action and party may seek redressal in an appropriate forum. The relevant paragraph 6 of the said judgment is reproduced below:

*“(6). The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. **It is seen that 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 order. After re-exercising the judicial review in contempt proceedings, a fresh 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. Therefore, the Division Bench has exercised the power under Section 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the Division Bench corrected the mistake committed by the learned Single Judge. Therefore, it may not be necessary for the State to file an appeal in*

this Court against the judgment of the learned Single Judge when the matter was already seized of the Division Bench”.

(emphasis supplied)

11. It is clear from the pleadings itself that the respondents have passed their orders (Annexures R-1 to R-5) in compliance with the order passed by the Tribunal. The Hon’ble Apex Court has settled the issue as held in the matter of **J.Parihar** (supra). In view of this, the petitioners have a fresh cause of action against the orders passed by the respondents.

12. Accordingly, this Contempt Petition is dismissed. Notices issued to the respondents are discharged.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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