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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CALCUTTA BENCH, KOLKATA**

Present : Hon'ble Justice Shri Vishnu Ch. Gupta, Judicial Member  
Hon'ble Ms Jaya Das Gupta, Administrative Member

CPC.350/00039/2015 DEBKUMAR MONDAL ORS.

MA.350/00170/2015  
(OA.350/00651/2014)

CPC.350/00040/2015  
MA.350/00173/2015  
(OA.350/00652/2014)

CPC.350/00041/2015  
MA.350/00176/2015  
(OA.350/00653/2014)

CPC.350/00042/2015  
MA.350/00177/2015  
(OA.350/00654/2014)

CPC.350/00043/2015  
MA.350/00175/2015  
MA.350/00056/2016  
MA.350/00060/2016

(OA.350/00655/2014)

CPC.350/00044/2015  
(OA.350/00656/2014)

CPC.350/00077/2015  
MA.350/00058/2016

(OA.350/01203/2014)

CPC.350/00078/2015

MA.350/00054/2016  
(OA.350/01204/2014)

CPC.350/00079/2015

(OA.350/01205/2014)

ASHIS KR DAS ORS.

SUDARSHAN MAL ORS.

SOMNATH PANDIT ORS.

JOYDEB KAJLI ORS.

AMIYA BERA  
JOYDEB KAJLI ORS.

SWATI PANDIT ORS.

SUMIT KR ROY & ORS.  
SUBITA SAHOO (MONDAL)

LAKSHMI RANI BERA  
(SAMANTA) & ORS.  
RUPALI GHORAI (BHUNIA)

SUBHASIS GUCHHAIT & ORS.

10/10/2014

CPC.350/00080/2015 MA.350/00059/2016 (OA.350/01206/2014)	GOURI RANI PRADHAN & ORS. MANASI RANI (GURIA)
CPC.350/00081/2015 (OA.350/01207/2014)	SUBRATA KR DAS & ORS.
CPC.350/00082/2015 (OA.350/01208/2014)	ASITAVA KHANRA
CPC.350/00083/2015 MA. 350/00055/2016 (OA.350/01209/2014)	HIMNGSHU SEKHAR MÖNDAL & ORS. ANUP KR BERA
CPC.350/00084/2015 (OA.350/01210/2014)	MANAS KHANRA & ORS.
CPC.350/00085/2015 (OA.350/01211/2014)	CHANDAN JANA & ORS.
CPC.350/00086/2015 (OA.350/01212/2014)	SUDIPTA KR MONDAL & ANR.
CPC.350/00087/2015 MA.350/00057/2016 MA.350/00061/2016 (OA.350/01270/2014)	JOYDEV KAR & ORS. PRASANTA MANNA & ORS. MANOBRATA MONDAL & ORS.

Vs.

RADHESHYAM & ORS. (S.E. Railway)

For the Applicants	:	Mr. B. Samanta, Counsel Mr. B. Chatterjee, Counsel
For the Respondents Counsel	:	Mr. M.K. Bandyopadhyay, Mr. P.B. Mukherjee, Counsel Ms. S.D. Chandra, Counsel

Date of Hearing :03.08.2016

Date of Order : 05.08.2016



**ORDER (ORAL)****JUSTICE V.C. GUPTA, JM**

These petitions under Contempt of Courts Act arising out of a common order passed by this Tribunal in a bunch of cases having O.A.No. 350/00651/2014 and 5 other O.As on 16.06.2014, which reads as under :

"5. Ld. Counsel for the respondents submits that the matter is still under consideration of competent authority and in case the respondents are allowed six months' time, it is expected that appropriate orders will be passed in the matter, to which suggestion Ld. Counsel for the applicants do not object.

6. In such view of the matter with the consent of the parties the OAs are disposed of with this common order with direction upon the competent authority to make an honest endeavour to complete the exercise and pass appropriate orders within six months for their employment against Group 'D' category or substitutes as promised to them."

Similar common order was also passed in another bunch of cases on 26.09.2014 in O.a.No.1203/2014 & 10 other O.As. In these cases this Tribunal take cognizance of the matter and passed an order on 01.09.2015 which reads as under :

"Heard both. The learned counsel for the Railways placing reliance on the affidavit filed by the respondent authority in the CPC would submit that out of 104 candidates in the batch of these CPCs, 23 persons were assessed as eligible to get the benefit under the scheme concerned; however, they should subject themselves to medical examination and police verification and that process would take time and therefore sufficient time may be granted in this regard.

2. However, the learned counsel for the Contempt Petitioners would submit that the Railway authorities cannot adopt double standard in assessing the eligibility of land losers



for appointment and they cannot go on getting time for the purpose of reporting compliance with the order of C.A.T.

3. In view of the submission made by the learned counsel for the respondents, six weeks more time is granted to the Railway authorities to give appointment to the so called 23 candidates, who have been assessed so far for appointment. Relating to others, the Railways have to file an affidavit as to why they have not been given appointment to them and that too when according to the petitioners 404 persons relating to same land losers scheme pertaining to Nandi Gram, were given appointment. The criteria adopted for giving appointment to such 404 persons shall be furnished before this Tribunal so as to enable the contempt petitioners to file rejoinder on that.

List on 27.11.2015 at 2.30 P.M."

2. Thereafter, an affidavit has been filed on behalf of the respondents on 08.01.2016. This Tribunal after taking note of the same passed an order on 09.05.2016, which is extracted herein below :

"We have gone through the Compliance Report submitted along with the Affidavit dated 08.01.2016. We find that 23 persons who have been shown as "Clear cases in connection with Deshpran-Nandigram Project arising out of 17 Contempt Cases", in Annexure - CR-3 with the Affidavit, have been given appointment. From the perusal of the Compliance Report it further reveals that in CPC.No.43 of 2015(O.A.655/2014) against the name of Amiya Bera it has been mentioned that "His name has not been sent to headquarters by Screening Committee as per Telephonic conversation with Dy.CE(Con)/Land/GRC". In CPC No.77/2015(O.A.1203/2014) against the name of Sabita Sahu Mondal and Sudipta Khanra it has been mentioned that "Name has not been listed". Similar are the cases of Manasi Ramo Giri(Guria) in CPC.No.80/2015(O.A. 1206 of 2014) and Subrata Kr. Das, Milan Maity and Tapas Bera in CPC.81/2015(O.A. 1207/2014). It appears that in CPC.No.87/2015(O.A.1270/2014) the case of Dulal Manna, Prasanta Manea, Satya Ranjan Maity have not been considered at all and against the name of Binapani Kamila it is mentioned that "Name has not been listed". What were the reasons for non-consideration/not listing



their names, have not been disclosed except mentioning that their names have not been listed.

2. Learned Counsel for the respondents sought two weeks. Time to explain the same by filing a separate affidavit and to ascertain whether they are in willful non-compliance of the order of the Tribunal or not. The prayer is allowed. List on 15.06.2015.

3. A copy of this order be kept in all the CPC files."

3. In compliance of the order on 30.05.2015 another affidavit has been filed wherein the scheme has been annexed which has provision to provide appointment in the Railways of land losers affected by land acquisition for Railway Projects. Para 5 of the Scheme is relevant for deciding this application, which is extracted below :

"The applicant should normally fulfil the eligibility and other condition prescribed for the post against direct recruitment quota from open market. In special cases, General Manager of the Railway can relax these conditions, and in respect of educational qualifications, applicant will read and write only capability shall also be considered."

4. Learned counsel for the applicants would submit that in view of the order passed by this Tribunal which has sought to be executed categorically mandated to the respondents that the competent authority to make an honest endeavour to complete the exercise and pass appropriate orders within six months for their employment against Group D category or substitutes as promised to them.

5. There is no express promise given by the authorities to make appointment is on record, rather it can be submitted that in terms of the policy, the Railway assures to provide appointment to land losers whose property had been acquired for the Railway project and that being the



provision having statutory force ought to have been fulfilled. So it would have been complied with.

6. Initially 104 persons relating to O.As were considered. Out of these 104 persons 23 persons were found entitled to be appointed. This Tribunal issued a direction to respondents to file an affidavit as to why the persons other than 23 have not been given appointment. According to the applicants 404 persons relating to land losers were given appointment.

7. The affidavit filed in pursuance of this order by the respondents is on record which reveals that they have annexed a list of all 104 candidates who were considered, wherein some of the cases are clear case for appointment. However, others were shown not qualifying the eligibility criteria in respect of upper age or educational qualifications. When this list was produced certain names were shown to be not listed. A further clarification was sought from the Railways and in pursuance thereof they filed another affidavit on 30.05.2016, wherein they have tendered an unconditional apology and submitted that out of 104 applicants arising out of the 17 contempt cases, 23 applicants have been shown as 'clear case' in the affidavit submitted on 08.01.2016. However, status of 11 applicants as mentioned "not listed" has been provided. It has been admitted in para 6 of this affidavit that 11 applicants were erroneously mentioned in the affidavit dated 08.01.2016 due to oversight as the name of these 11 applicants had to be browsed to the 826 land losers candidate list for which regret has been prayed. By this affidavit it has been clarified that out of these 11 applicants 3 applicants Subrata Kumar Das, Milan Maity and Tapas Bera were found to be entitled for appointment

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as 'clear case' has been approved by the competent authority towards employment assistance in Group D category. As on the date of hearing it has been informed that the appointment has already been issued. So out of those 104 candidates 26 appointments were made and for the rest it has been stated that they were not found eligible as they are lacking in requisite eligibility criteria. All the applicants as per direction were considered in terms of land losers scheme and those were found fit to be granted appointment, appointments were given to them. But those who are not fulfilling the eligibility criteria were not considered for appointment. In the aforesaid circumstances, the learned counsel for the respondents requested to drop the contempt proceeding as the order has been complied with by the authority concerned.

8. Contrary to it, the learned counsel for the applicants would submit that the affidavit earlier filed on 08.01.2016 by the applicants at the first instance wherein a reference is made at page 6 that a total 1035 plots of land were acquired for the said project. 1225 applications for employment assistance were received. After the scrutiny total 413 cases were approved earlier by the competent authority for appointment in the Railways. The break up of these 413 cases approved for appointment were also given. According to this break up out of these 413 cases 67 persons were having clear case for appointment and no relaxation has been given either in age or in qualification. 47 applicants were under age at the time of approval of the competent authority but subsequently were appointed after attaining the requisite age. 54 applicants were given relaxation in upper age and relaxation in educational

A handwritten signature in black ink, appearing to read "D. M. S.", is located at the bottom right of the page.

qualification were accorded to 160 persons and 85 applicants were those who were given relaxation for both upper age limit and educational qualification. On this strength of this averment it has been submitted by learned counsel for the applicants that while exercising the discretion of relaxing the age or educational qualification or for both no criteria has been placed on record by the Railways. Hence when the relaxation of age and educational qualification was given to others, the Railways under an obligation to demonstrate as to how 78 (104-26) applicants were not given relaxation in age or educational qualification.

9. The learned counsel after relying upon the pronouncement of the Hon'ble Apex Court in *Khitish Goswami & Others vs. Subrata Kundu and others*, (2013) 11 SCC 618, argued that it was incumbent upon the Court exercising the contempt jurisdiction to ensure the compliance of the order sought to be complied and for that necessary direction may be issued. The relevant paragraphs of the judgment are extracted herein below :

"9. The only question which requires examination in this petition is whether the High Court could have, while considering the grievance made by the respondents about non-compliance with order dated 12-9-1997 (*Principal Secy., Writers' Building v. Santanu Mitra, WPST No. 169 of 1972(Cal)*, order dated 12-9-1997, issued directions for appointment of the successful candidates despite the fact that prayer made by them for punishing the petitioners was not entertained.

10. A reading of the order passed by the Tribunal, which was confirmed by the High Court by dismissing the writ petition filed by the official respondents shows that the Selection Committee had considered the candidature of all those who were sponsored by the employment exchanges as also those who were sponsored by the then Minister-in-charge, Public Works Department. The Tribunal found that while making

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appointments, the authority concerned had violated the selection list and held that this amounted to violation of Articles 14 and 16 of the Constitution. The Tribunal finally directed that appointments should be made strictly in accordance with the merit list. The High Court dismissed the writ petition filed by the State Government and directed the authorities concerned to implement the Tribunal's order within a period of two months.

11. It is not in dispute that the Selection Committee had recommended the names of 179 candidates including the respondents. Shri Pijush Roy, learned counsel for the petitioners stated that out of 179 candidates recommended by the Selection Committee, 161 were appointed and the remaining 18 persons were not appointed despite the directions given by the Tribunal and the High Court because the merit list had become defunct. He made strenuous effort to persuade us to take the view that in exercise of contempt jurisdiction the High Court cannot issue direction for implementation of the order, violation of which led to the initiation of the contempt proceedings, but we have not felt persuaded to agree with him. Rather, we are in complete agreement with the High Court that one of the objects of the contempt jurisdiction which is exercised by the High Court under Article 215 of the Constitution read with the Contempt of Courts Act, 1971 is to ensure faithful implementation of the direction given by it. This is precisely what the Division Bench of the High Court has done in this case. Therefore, we do not find any valid ground or justification to entertain the petitioners' challenge to the impugned order."

10. The learned counsel also relied upon certain other judgments wherein it was held that while exercising the jurisdiction under Contempt of Courts Act, the High Court and Supreme Court are competent to issue direction to ensure the compliance of order. The judgment which has been cited are as under :

***Mohammad Idris and another vs. Rustam Jehangir Bapuji and others,***  
 reported in AIR 1984 SC 1826, relevant portion of which is extracted below :



"4. On merits, the learned counsel submitted that the undertaking given was not in respect of the property concerned and that in any case the learned Single Judge was not justified in giving certain directions in addition to punishing the petitioners for contempt of court. We find no substance in the submissions made by the learned counsel. There was a clear breach of the undertaking given by the petitioners and we are of the opinion that the Single Judge was quite right in giving appropriate directions to close the breach. The Special Leave Petition is, therefore, dismissed."

***Delhi Development Authority vs. Skipper Construction Co. (P) Ltd. &***

***Another, reported in (1996) 4 SCC 622.*** Relevant portion of the judgment is extracted below :

"17. The principle that a contemner ought not to be permitted to enjoy and/or keep the fruits of his contempt is well settled. In *Mohd. Idris v. Rustam Jehangir Babuji* (1984) 4 SCC 216 this Court held clearly that undergoing the punishment for contempt does not mean that the court is not entitled to give appropriate directions for remedying and rectifying the things done in violation of its orders. The petitioners therein had given an undertaking to the Bombay High Court. They acted in breach of it. A learned Single Judge held them guilty of contempt and imposed a sentence of one month's imprisonment. In addition thereto, the learned Single Judge made appropriate directions to remedy the breach of undertaking. It was contended before this Court that the learned Judge was not justified in giving the aforesaid directions in addition to punishing the petitioners for contempt of court. The argument was rejected holding that "the Single Judge was quite right in giving appropriate directions to close the breach (of undertaking)".

***Palitana Sugar Mills Private Limited and another vs. Vilasiniben Ramachandran and Others, reported in (2007) 15 SCC 218*** the Hon'ble Supreme Court in para 23 & 24 had held as under :

"23. We, therefore, hold them guilty of willful and deliberate act of contempt of our order dated 15-10-2004 (2006) 13 SCC 581. However, taking a lenient view and taking into consideration the

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future prospects of the officers, we are not imposing any punishment for their willful and contumacious violation of the order this Court. They are severely warned that they shall not involve themselves or violate the order of the highest court of the land and will not resort to the unacceptable new pleas by way of defence for the first time in the contempt proceedings. They shall not hereafter also take the plea of inventing in innovative defence that they did not realize the implications of the order passed by this Court when no such argument was ever advanced at the time of hearing before this Court and on earlier occasions.

24. The courts have held in a catena of decisions that where in violation of an order of this Court, something has been done in disobedience, it will be the duty of this Court as a policy to set the wrong right and not to allow the perpetuation of the wrongdoing. In our opinion, the inherent power will not only be available under Section 151 CPC as available to us in such a case but it is bound to be exercised in that manner in the interest of justice and public interest. All the respondents are senior and experienced officers and must be presumed to know that under the constitutional scheme of this country, orders of this Court have to be punctually (sic punctiliously) obeyed and should not be trifled with. We have already found hereinabove that they have acted deliberately to subvert the orders of this Court. We, therefore, hold them guilty of contempt of court and do hereby censure severely their conduct. Though a copy of this order could be sent which shall form part of the annual confidential record of service of each of the said officers, we refrain from doing so by taking a lenient view of the matter considering the future prospects of the officers. As already stated, the officers shall not indulge in any adventurous act and strictly obey the orders passed by the courts of law. We by this order grant four weeks' time to the respondents to comply with all our directions given in the judgment dated 15-10-2004 (2006) 13 SCC 581. The petitioner is at liberty to move this Court if the directions are not complied with in its letter and spirit."

*R.M.Ramaul vs. The State Bank of Himachal Pradesh and others, AIR*

**1991 SC 1171.** Para 2 of the judgment is quoted hereunder :



"2. In our view complainant's grievance is a legitimate one. Though there was no specific direction in the order of this Court to consider complainant's case for promotion with effect from 26-5-1982 such a relief was implicit in the reasoning of the order. Indeed, the Corporation in convening the D.P.C and reviewing the promotions and granting the notional promotion to the complainant for the period between 28-5-1982 to 3-9-1986, had virtually conceded this position. The withholding of the monetary benefits in respect of this period is inconsistent with what was decided in the judgment and what complainant was clearly entitled to. Since there was no specific direction in this behalf in the order, technically, there may be no case for punishment for contempt; but we make it clear that the promotion for the period from 28-5-1982 to 3-9-1986 should be accompanied by the monetary benefits. If a specific direction is necessary we issue it here and now. The appropriate monetary benefits shall be granted within 2 months from today."

On the strength of those judgments it has been submitted that this Tribunal has a right to ensure faithful and genuine compliance of the order. It has been stated that in these cases a list was appended of those who have not qualified in the requisite criteria but why the relaxation in age and educational qualification has not been extended though in other cases the same has been given, has not been disclosed. The applicants would not be left on the mercy of arbitrary action of the competent authority. It was further submitted that when the authority was not inclined to give the discretion in relaxation of age or qualification they are required to pass a speaking order in either case i.e. by granting or refusing the relaxation.

11. Learned counsel for the respondents has submitted that they have diligently and with open mind considered the cases and decided as to who would be entitled for appointment. It is well settled principle of law that discretionary orders would not lightly be interfered, unless it is shown that



the exercise of jurisdiction is not based on statutory provisions or against the settled norms of equity or of good conscience.

12. In *J.S.Parihar vs. Ganpat Duggar and Others, reported in (1996) 6 SCC 291*, the 3 Judge Bench of Hon'ble Supreme Court held that while exercising the jurisdiction under the Contempt of Courts Act in an application for contempt, Court cannot issue further direction to the department.

The Hon'ble Apex Court in *Dinesh Kumar Gupta vs. United India Insurance Company Ltd., (2010) 12 SCC 770* rules that mere disobedience will not constitute a case for initiating proceedings of contempt. The requisite basis for initiating contempt would be a wilful disobedience and unless the authority come to this conclusion that there is wilful disobedience, the court will not be competent to initiate proceeding under the Contempt of Courts Act as is discussed in para 17 which is extracted herein below :

"This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and circumstances of the instant case. In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this Court that contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, as case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance with the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, however articulate it may be,



will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too postulates and emphasises that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature."

13. After considering the rival submissions of the learned counsel for the parties, it has to be seen whether substantial compliance was made of the order passed by the Tribunal and whether while complying the order the respondents acted in good faith and made sincere effort to comply the order.

On perusal of the order sought to be executed reveals that applicants of those O. As which were disposed of by the common order, applied for appointment under land losers Scheme and their applications were not considered for fairly long time. Hence in view of that this Tribunal directed the respondents to consider their applications in the light of the scheme. The order sought to be complied with contained a direction to the authorities to consider the claim of the applicants for appointment under the land Losers Scheme. No clear or positive direction was issued to the respondents to make appointment. However, if anybody is found entitled to be granted appointment, the necessary consequence of this direction would be that he should be appointed.

14. Several judgments relied upon by the learned counsel for the applicants, reveals that while exercising the jurisdiction for contempt the Courts are required to ensure compliance of the order and if necessary issue direction to ensure compliance. In case in hand directions during the pendency of the application were given twice by the Tribunal.



**J.S Parihar's case (supra)** decided by the 3 Hon'ble Judges of Hon'ble Apex Court is a landmark decision wherein it has been categorically held in para 6 that no further direction could be given. Para 6 of the Judgment is extacted herein 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 willfully 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 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 willful 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."

The cases referred by the learned counsel for the applicants are those where the order sought to be complied with was not at all complied and thus the direction issued by the Court to ensure compliance was found necessary and the Apex Court held that such direction would be within the purview of power conferred in the High Court under Article 215 of the Constitution of India.

The Supreme Court has ample jurisdiction under Article 142 to pass any order to do complete justice between the parties irrespective of the fact whether the Apex Court is exercising the appellate jurisdiction under the Contempt of Courts Act or under Article 136 of the Constitution of India.

15. In the case in hand the direction was issued by Tribunal to consider the case of the applicants for granting appointment to the applicants under Land Loosers Scheme. It is not in dispute that respondents have considered the applications and out of those 104 applicants after getting the application examined granted appointment to 26 eligible persons. So far as the other candidates are concerned they were not found eligible either on account of age or educational qualifications. The competent authority has not given any benefit of relaxation.

16. The question now arise that whether during pendency of Contempt Petitions competent authority could be directed to exercise the discretion in a particular manner. The competent authority in cases in hand has decided not to extend the discretionary benefit to the applicants. In our opinion no court

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can issue any mandamus to the competent authority to exercise the discretionary jurisdiction in any particular manner. In the J.S.Parihar case (supra), in the facts and circumstances of that case, the Government has drawn a seniority list in pursuance of an order passed by the Court. The contempt court issued direction to re-draw the seniority list, as the Tribunal was of the opinion that the same has not been drawn in terms of the order passed by the Court. The Hon'ble Apex Court has categorically held that when the seniority list has been drawn, the contempt court cannot issue further direction to re-draw the list in terms of the earlier order. If the list has been wrongly drawn it gives a fresh cause of action.

17. In view of the discussion made herein above and in view of the law laid down by the Hon'ble Apex Court, we are of the view that in this case order has been substantially complied with. Out of 104 applicants the competent authority has granted appointment to the suitable persons who were found eligible to grant appointment under the scheme and for others they declined to give appointment in the light of the scheme. Hence in absence of any mandamus by the Court in the order sought to be complied to give appointment this Court cannot further investigate the reasons for not exercising the discretion in favour of the applicants who were not granted appointment. Non consideration or non exercising the discretion by the competent authority, in not relaxing the criteria, give fresh cause of action to the applicants and, if so advised, they are free to approach the appropriate forum challenging the order of non consideration of their appointment.

(J.W) /

18. In view of the above, there is no disobedience and the order has been substantially complied with. Therefore, CPCs deserve to be dismissed, as observed herein above, with liberty to the applicants to challenge the order of not giving appointment in appropriate forum, if permissible, under the law.

15. With the above observation the Contempt Proceedings are accordingly dropped. Notices, if any issued to respondents, shall stand discharged.

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(Jaya Das Gupta )  
Administrative Member

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(Justice V.C.Gupta)  
Judicial Member

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