

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
CONTEMPT APPLICATION NO.39 OF 2016  
IN  
ORIGINAL APPLICATION NO.421 OF 2003**

1. Shri Sunil N. Bawane, )
2. Shri Jitendra N. Kale, )
3. Shri Nitin P. Muttyalwar, )
4. Shri Dinesh N. Rote, )
5. Shri Vijay H. Kotecha, )
6. Shri Laxmikant P. Raulkar, )  
C/o Shri S.P. Palshikar, Advocate, )  
Shri K.R. Jagdale, Advocate, )  
M.A.T. Mumbai )..Applicants

Versus

1. The State of Maharashtra, )  
Through its Secretary (Construction), )  
Public Works Department, )  
Mantralaya, Mumbai 400032 )
2. Shri Sumit Malik, )  
Additional Chief Secretary, )  
Public Works Department, )  
Mantralaya, Mumbai 400032 )..Respondents

Shri S.P. Palshikar – Advocate for the Applicants

Miss Neelima Gohad – Presenting Officer for the Respondents

CORAM : Shri Justice A.H. Joshi, Chairman  
Shri Rajiv Agarwal, Vice-Chairman

DATE : 14<sup>th</sup> July, 2017



**J U D G M E N T**

(Per : Shri Justice A.H. Joshi, Chairman)

1. Heard Shri S.P. Palshikar, learned Advocate for the Applicants and Miss Neelima Gohad, learned Presenting Officer for the Respondents.
2. This case was heard from time to time. It was again heard today.
3. This Tribunal had passed order and decided the OA No.421 of 2003 by judgment and order dated 11.9.2003.
4. Operative part of the order passed by this Tribunal reads as follows:

“The Original Application is partly allowed. The Government Resolution dated 1.3.2000 is partly held to be invalid and set aside. It is invalid in respect of 507 posts of Assistant Engineer – Grade II (Class II) (Civil) contemplated by Group ‘B’ and in respect of 399 posts of Assistant Engineer – Grade II (Class II) (Civil) contemplated by Group ‘C’. It is made clear that they can be regularized following the Rules of 1997. The rest of the GR is upheld. OA disposed off accordingly.”

(Quoted from page 92 of CA)

5. The order passed in OA No.421 of 2003 has attained finality as WP challenging the judgment was dismissed so was SLP too dismissed.
6. Applicants claim that they claim interest similar to the interest of respondents in OA.
7. We are really puzzled as to how respondents who lost the OA can be said to have received some thing, but applicants seem to be convinced that they claim interest through respondents and based thereon, the applicants claim that the order passed in OA is not implemented rather not implemented in right spirit and faithfully to the rules as in vogue prior to the amendment in Recruitment Rules effected on 8.7.2009 by substitution of crucial rule relating to assignment of seniority.

8. On perusal of order passed in OA and after considering the submissions advanced on behalf of applicants, we see that applicants have failed to show any expressed directions contained in the order passed in OA No.421/2003 to have been willfully disobeyed or disregarded.

9. It is seen that after decision of the OA dated 11.9.2003, during pendency of WP the Recruitment Rules have been amended, may be to give benefit to a particular class/group of employees. However, said legislative act would not constitute contempt much less willful act of disobedience of orders, particularly when any expressed and unambiguous orders allegedly disobeyed are not shown. Probably applicants want to argue that the amendment in Recruitment Rules is motivated to defeat the entitlement of applicants, however, the grievance of malafide or motivated change of rules does not come within the tooth of contempt.

10. Hence, we are not satisfied that a case for taking cognizance is made out.

11. Hence, CA is dismissed.



Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**  
**14.7.2017**

Sd/-

**(A.H. Joshi J.)**  
**Chairman**  
**14.7.2017**

Dictation taken by: S.G. Jawalkar.