

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

CONTEMPT APPLICATION NO.10 OF 2019

IN

ORIGINAL APPLICATION NO.957 OF 2011

Shri Maruti Limbaji Karangale)
Aged Adult, Occu. Retired Govt. servant.)
Ex. Government Service as Sub Treasury Officer,)
Was working in the office of District Treasury,)
Pune, having office in the compound of District Collector,)
Pune – 1.)
..... Applicant

Versus

1) Smt. Asmita Baji,)
The Jt. Director Administrative Directorate of)
Accounts and Treasuries, having office at Surji)
Vallabhdas Marg, Ballard Estate, Thakersey House,)
3rd floor, Mumbai Port Trust, Mumbai – 1)
2) Shri Nitin Gadre,)
Principal Secretary, Finance Department,)
State of Maharashtra, having office at Mantralaya,)
Mumbai 400 032.)
3) Shri Dineshkumar Jain,)
Aged Adult, Occ. Government Service as Chief)
Secretary, State of Maharashtra,)
Having office at Mantralaya, Mumbai 400 032.)
..... Respondents

Shri B.A. Bandiwadekar, learned Advocate for the Applicant.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : SHRI P.N. DIXIT, VICE-CHAIRMAN
SHRI A.P. KURHEKAR, MEMBER(J)

DATE : 19.11.2019

PER : SHRI A.P. KURHEKAR, MEMBER(J)

J U D G M E N T

1. Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.
2. The present Contempt Application has been filed alleging that the Respondents have committed contempt of the directions given by this Tribunal while deciding the O.A.No.957 of 2011, on 31.07.2015. The Tribunal issued following directions in paragraph, 18 of the judgment, which is as follows :-

“18. The communication Ex-A to this O.A. dated 10.12.2010 and the communication मप्रन्या २०१४/प्र.क्र. १८८/कोषा प्रशा-२, वित्त विभाग, मंत्रालया, मुंबई, दिनांक ०९.०६.२०१९ are hereby quashed and set aside. The respondents are directed to reconsider the issue of grant of promotion to the applicant from open/general category in the D.P.C. held on 27th October, 2008 (Ex.R.II), page 79 of the P.B. If found fit the applicant be given promotion with effect from an appropriate date bearing in mind that the applicant claims it from 31.5.2010. Consequential benefits if any be also given to the applicant. Special DPC be convened if need be and compliance herewith be made within three months from today and the applicant be informed the decision within one week thereafter.”

3. In view of the directions given by this Tribunal, Respondents have considered the matter and granted deemed date of promotion to the Applicant w.e.f. 03.07.2010 and further passed the order that the applicant will not be entitled for pay and allowance for the period from 03.07.2010 till the date of his retirement. Respondents have placed on record order dated 15.05.2019 to that effect.

4. Learned Advocate for the Applicant submits that the Applicant ought to have been granted deemed date of promotion w.e.f. 31.05.2010 and further he should have been granted consequential benefits, namely, Pay and Allowances. According to him by not denying so, Respondents have committed Contempt.

5. Whereas learned C.P.O. for the Respondents submits that by order dated 31.07.2015 this Tribunal directed to consider the claim of the Applicant bearing in mind that the Applicant claimed it from 31.05.2010. She submits that there is no such positive operative order for granting of deemed date of promotion w.e.f. 31.05.2010. She further submits that the deemed date of promotion w.e.f. 03.07.2010 was granted considering the promotion granted to Shri Sanjay V. Pednekar, junior to the Applicant and therefore there is nothing wrong therein much less Contempt. As regards consequential benefits, she submits that the same has been denied by the Respondents being not entitled to so.

6. In the first place, as stated above, there is no such specific direction or operative order to grant deemed date of promotion with specific date and further to grant pay and allowance of the said period. All that the Tribunal directed was to consider the claim of the applicant and grant consequential benefits, if any, be given to the Applicant. This being the position Tribunal only directed to consider the claim of the Applicant in accordance to rules which is accordingly done by the Respondents and therefore question of Contempt does not survive.

7. If the Applicant is aggrieved by non grant of deemed date of promotion w.e.f. 31.05.2010 or by refusal of pay and allowance than it can be different cause of action for which the applicant may take the course of law as being permissible to him.

8. Learned Advocate for the Applicant sought to rely on the judgment of Hon'ble Supreme Court **(2007) 2 Supreme Court cases (L&S) 748, Commissioner, Karnataka Housing Board Versus C. Muddaiah, Civil Appeal No.4108 of 2007, decided on 07.09.2007.** We have gone through the judgment relied by him. In that matter specific order was passed by the Hon'ble High Court directing to the Board to reassign seniority to the Petitioner by placing them above Respondents No.2 to 34 and to grant other consequential benefits as such. Suffice to say there were specific orders to reassign the seniority with specific mention of placing them above Respondents No.2 to 34. In that context Hon'ble Supreme Court held that the benefit of pay and allowances cannot be refused and denial would amount to contempt.

9. Whereas in present case, as stated above, there is no such specific order to grant deemed date of promotion with specific date. All that direction only was given to the Respondents to consider the same. This being the position, this is not the case of obvious Contempt.

10. We have, therefore, no hesitation to sum up that there is no merit in the Contempt Application and it deserves to be dismissed. Accordingly, Contempt Application is dismissed with no order as to costs.

Sd/-
(A.P. KURHEKAR)
MEMBER(J)

Sd/-
(P.N. DIXIT)
VICE-CHAIRMAN

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