

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF NOVEMBER 2018

PRESENT

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

AND

THE HON'BLE MR.JUSTICE P.G.M.PATIL

CCC Nos.200198-204/2017 (CIVIL)

Between:

1. Sanjeevkumar
S/o Narasingrao
Age: 33 years
Occ: Jr. Asst./
Ledger Maintenance
Shakti Nagar, Kalaburagi
2. Nagesh S/o Laxman
Age: Major, Occ: Asst./
Ledger Maintenance
R/o Plot No.75
At Post. Sindagi B
Tq. & Dist. Kalaburagi
3. Jagdish
S/o Shankar Itgundi
Age: 38 years, Occ: Jr. Asst./
Ledger Maintenance
R/o at Post. Sindagi B.
Tq. & Dist. Kalaburagi

4. Madivalappa
S/o Gunderaya Hargi
Age: 36 years, Occ: Jr. Asst./
Ledger Maintenance
R/o At Post: Chincholi
Tq. Afzalpur, Kalaburagi
5. Shivakumar
S/o Sidramayya Kumbar
Age: 40 years
Occ: Jr. Assistant
6. Venkatesh
S/o Malleshappa
Age: 39 years
Occ: Jr. Asst./
Ledger Maintenance
R/o Near Police Quarters
Shahabad
Dist. Kalaburagi
7. Vadiraj S/o Narasingrao
Age: 38 years, Occ: Jr. Asst./
Ledger Maintenance
R/o H.No.250/8
Biddapur Colony
Prabhu Sangam Nilay
Kalaburagi

... Complainants

(By Sri P. Vilaskumar, Advocate)

And:

1. Dr. R. Ragapriya
Gulbarga Electricity
Supply Company Limited
Through its Managing Director
Station Road
Kalaburagi – 585 102

2. Sri Shivalal B. Rathod
The Superintendent Engineer (Ele)
GESCOM, Kalaburagi – 585 102

... Accused

(By Sri Ameet Kumar Deshpande, Advocate for A1;
Sri Ravindra Reddy, Advocate for A2)

These CCCs are filed under Sections 11 and 12 of the Contempt of Courts Act, praying to initiate contempt proceedings against the accused for violating the order passed in W.P.Nos.101460-101467/2013 dated 15.12.2015 which is at Annexure-A, and order for taking action as deemed fit including punishing the accused with imprisonment.

These CCCs coming on for Orders this day, **Aravind Kumar J.**, made the following:

ORDER

These contempt proceedings are initiated by the complainants alleging willful disobedience of the order dated 15.12.2015 passed in W.P.Nos.101460-467/2013. Direction passed by the learned Single Judge (as His Lordship then was) which reads as under:

“11. The award dated 07.09.2012 in Reference No.12/2012 is accordingly set aside. The termination of the petitioners on 31.01.2008 is therefore held to be illegal. The respondents are directed to reinstate the

petitioners into service, grant continuity of service and treat them as the regularly appointed workmen of the respondent – Corporation. However, in the facts and circumstances of the case the petitioners would not be entitled to the back wages in monetary terms but the respondents at the point of reinstating the petitioners shall fix the wages by taking the consequential benefits in notional terms and fix the wages equal to that of a similarly placed employee who has continued in service till the date on which the petitioners are reinstated. The implementation of this order shall be made by the respondents within two months from the date on which a copy of this order is furnished to the respondents.

Petitions stand disposed of accordingly.”

2. Grievance of the complainants is that the accused/contemnors have willfully disobeyed the direction issued by this Court namely, complainants though have been reinstated into service and paid

wages, same is not in consonance with the order passed and what has been fixed is improper, illegal and such fixation is only to project as though order has been complied with. Hence, they have sought for appropriate action being taken against the contemnors for willful disobedience.

3. Sri P.Vilaskumar, learned counsel appearing for complainants has reiterated grounds urged in the contempt petitions and would submit that a clear direction came to be issued by the learned Single Judge which was to the effect of granting continuity of service to complainants and to treat them as regularly appointed workmen and complainants had been appointed initially as 'Ledger Maintenance/Opening of test report works' and on account of order of removal having been set aside, respondents are required to grant same pay scale as that of Ledger Maintenance/Junior Assistant and as such, by relying upon the judgment of

the Apex Court in the case of **CENTRAL COOPERATIVE CONSUMERS' STORE LTD., vs. LABOUR COURT, H.P. AT SHIMLA AND ANOTHER** reported in **AIR 1994 SC 23**, he seeks for charge being framed against contemnors.

4. Per contra, Sri Ameet Kumar Deshpande, learned counsel appearing for accused has contended that accused No.1 has highest regard for the orders passed by this Court and has complied with the directions issued by this Court even at the first instance when the order came to be passed on 31.08.2017 which was filed along with the affidavit dated 23.01.2018 and contends same would clearly indicate that intention of the respondents/contemnors was to comply with the directions and not to give scope for any infraction of said order. He would also draw attention of the Court to the subsequent affidavit filed to buttress his arguments that, at no point of time, accused/respondents had any

inclination either to circumvent the directions issued by the learned Single Judge or not to implement the order passed by this Court and both in letter and spirit, directions issued by the learned Single Judge has been complied. Hence, he prays for further proceedings being dropped.

5. Having heard the learned Advocates appearing for parties and on perusal of records, we are of the considered view that while examining the plea of alleged willful disobedience of the order of this Court, endeavor of this Court is to ascertain or examine as to whether there is any disobedience of the order passed by this Court or non-implementation of the direction issued by this Court and thereby stream of justice is not polluted.

6. Keeping these salutary principle in mind, when the facts on hand are examined, it would clearly indicate that direction which came to be issued in W.P.Nos.101460-467/2013 on 15.12.2015 was to the

effect that the respondents should reinstate the complainants/petitioners into service; grant continuity of service; and treat them as regularly appointed workmen of the respondent-corporation. A plain reading of these directions would clearly disclose that the directions issued are three fold:

- (i) reinstatement;**
- (ii) grant of continuity of service; and**
- (iii) to treat the complainants as regularly appointed workmen of the corporation.**

7. Further direction which has been issued is that complainants/petitioners would not be entitled to claim backwages in monetary terms but the accused/respondents were required to reinstate the complainants/petitioners by fixing the wages by taking consequential benefits in notional terms and fix the wages equal to that of a similarly placed employee who was continued in service till the date on which the complainants/petitioners are reinstated. There is no

dispute to the fact that accused/respondents having reinstated complainants on 31.08.2017. Thus, scope or scrutiny of claim of the complainants in the present proceedings being restricted or limited, implementation of the direction issued by this Court and with this blinkers, when the order passed complying the directions issued by learned Single Judge filed along with the affidavits filed by the corporation namely viz., affidavits dated 23.01.2018, 16.02.2018 and 15.11.2018 are perused, it does not indicate that there has been non-compliance of the order passed by the learned Single Judge in the above referred writ petitions. In substance, direction issued by the learned Single Judge has been complied with. Since there is no positive direction issued with regard to pay fixation and direction issued in this regard is to the effect that fixation of wages of complainants/petitioners would be equal to that of a similarly placed employee, respondent-Corporation by its Official Memorandum

dated 14.11.2018 Annexure-R7 annexed to the affidavit dated 15.11.2018 have fixed wages and same also having been revised as could be seen from the said order would disclose direction issued by learned Single Judge has been complied. If, at all, complainants are aggrieved by such fixation, it is always open for them to challenge said Official Memorandum dated 14.11.2018 and as such, without expressing any opinion in that regard, and reserving liberty to the complainants to challenge the said Official Memorandum dated 14.11.2018, we are of the considered view that the present contempt proceedings are required to be dropped. Accordingly, proceedings are dropped.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

NB*