

2023 LiveLaw (SC) 530 : 2023 INSC 617

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

B.V. NAGARATHNA; J., PRASHANT KUMAR MISHRA; J.

CIVIL APPEAL NO. 128 & 92 /2023; JULY 04, 2023

GURUDEEP SINGH *versus* REGONDA SRINIVAS & ORS.

Contempt of Court - Unconditional Apology - The Supreme Court granted relief to the Chairman & Managing Director and the General Manager (Human Resources) of the National Thermal Power Corporation Ltd, who were sentenced to 2 months simple imprisonment by the Telangana High Court for contempt of Court. Setting aside the High Court judgment in an appeal filed by the NTPC officers, held that in a case of contempt, even if the High Court came to a conclusion that there was a deliberate and willful disobedience of the order of the court, it could have considered the unconditional apology tendered by NTPC and concluded the matter. (Para 14)

Contempt of Court - Timeline stipulated by court but the process of recruitment is the prerogative of appellant. The judgment by the High court in 2021 did not debar NTPC from issuing a fresh notification. It only directed them to finish the recruitment process within 2 months. Therefore, it would not constitute a contempt of court. In the absence of a specific direction to the effect that the recruitment be concluded in pursuance of the notification of 2017 alone, we are unable to hold that issuance of a fresh recruitment notification would constitute contempt of court. (Para 13)

For Appellant(s) Mr. Tushar Mehta, SG, Adv. Mr. Tushar Mehta Sg, Adv. Mr. Gopal Jain Senior Adv, Adv. Mr. Adarsh Tripathi, AOR Mr. Vikram Singh Baid Adv, Adv. Mr. Vikram Singh Baid, Adv. Mr. Ajitesh Garg Adv, Adv. Mr. Ajitesh Garg, Adv, Adv.

For Respondent(s) Mr. Arun K. Sinha, AOR Mr. Sumit Sinha, Adv. Mr. Arun K Sinha, Adv. Ms. Anjali Rajput, Adv.

J U D G M E N T

NAGARATHNA J.

The present Appeals arise out of the judgment dated 30.12.2022 in Contempt Case No. 776/2022 passed by the High Court of the State of Telangana whereby the Appellants, who are the Chairman & Managing Director and the General Manager (Human Resources) of the Company –NTPC Ltd. have been sentenced to undergo simple imprisonment for a period of two months and a fine of Rs. 2,000, by allowing the Contempt Case filed by the respondents herein.

2. The present appeals have been filed primarily on the ground that there has been no wilful and deliberate disobedience or noncompliance by the Appellants of the common judgment dated 17.12.2021 passed by the Division Bench of the High Court in WA No. 277/2020.

3. The present case pertains to the claim of Respondents and other similarly placed land oustees as Junior Mazdoors on the basis of a tripartite agreement in the year 1988 between NTPC Ltd. with the land oustees.

4. Briefly stated, the facts leading upto these appeals are that the Respondents herein and similarly situated persons were the absolute owners and possessors of the lands of various extents situated at different villages in Ramagundam Mandal, Karimnagar District. The said lands were acquired by NTPC prior to 1980 and an award was passed, awarding

compensation for the acquisition of the said lands. The land oustees were proposed to be recruited by the NTPC as Junior Mazdoor. On 15.05.2015, the NTPC issued an employment notification bearing number 2 of 2015 for sponsoring the names of the eligible land oustees to fill 25 posts of Junior Mazdoors in NTPC.

5. W.P. No. 26043/2016 was filed by an aggrieved land oustee assailing the aforesaid notification issued by NTPC in the year 2015 and the recruitment process undertaken by NTPC Ltd. pursuant to the said notification and the same was set aside by the Ld. Single Judge of the High Court as the mode of recruitment provided for was only through interview.

6. Another round of litigation ensued as NTPC issued a notification (No. 01 of 2017) dated 09.03.2017 to recruit junior mazdoors, which was also challenged before the High Court. The Division Bench of the High Court for the State of Telangana, in W.A.No.277 of 2020 directed NTPC to conclude the entire process of recruitment in pursuance of Notification No.01 of 2017 within two months from the date of the said judgment dated 17.12.2021.

7. Pursuant to the direction of the High Court dated 17.12.2021, a fresh recruitment Notification bearing No.1 of 2022 was issued and the recruitment process was initiated and the Employment Notification No.01 of 2017, dated 09.03.2017 was cancelled.

8. While matters stood thus, the Respondents herein filed a Contempt Petition bearing No. 776 of 2022 praying to punish the Appellants herein for deliberately not obeying/implementing and deliberately flouting the orders of the High Court dated 17.12.2021 and to hold the Appellants in contempt of Court. By the impugned judgment dated 30.12.2022 in Contempt Case No. 776 of 2022, the High Court concluded that there were deliberate and wilful laches, omissions and commissions on the part of the Appellants herein in spite of being fully aware of the implication of the judgment dated 17.12.2021 passed in W.A.No.277 of 2020 and batch, and therefore, the High Court allowed the contempt case and directed that the Appellants shall suffer simple imprisonment for a period of two (02) months and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) each, within four (04) weeks from the date of the judgment.

9. The key observations of the High Court of Telangana in the impugned judgment are as follows:

a. That the Appellants ought to have completed the process of recruitment following the Notification No.01 of 2017 dated 09.03.2017 within a period of two months from the date of judgment and issued consequential appointment orders within such time.

b. That the Appellants were the key persons in issuing the Notification No.01 of 2022 and attempting to wish away the judgment dated 17.12.2021 passed by a Division Bench of the High Court in W.A.No.277 of 2020 and Batch.

c. That the Appellants and NTPC Ltd. had demonstrated their scant respect to the law and the Order of the High Court by not making any efforts to comply with the orders of the Court dated 17.12.2021.

d. That instead of completing the recruitment process as directed by the High Court, the Appellants violated the orders of the Court by issuing a fresh notification (Notification No.1 of 2022 dated 01.02.2022) and cancelled the recruitment process initiated vide Employment Notification No.01 of 2017, dated 09.03.2017.

e. The High Court took note of the unconditional apology tendered by the Appellants but declined to accept the same by holding that they deserved no leniency.

Aggrieved by the said observations of the High Court, the present appeals have been filed by the Contemnors-Appellants.

10. We have heard learned Solicitor General for the appellants and Mr. Arun K.Sinha learned counsel for respondent Nos.1 to 7.

11. During the course of submissions, learned Solicitor General drew our attention to paragraphs 10 to 12 of the impugned judgment which read as under:-

“10. In view of the circumstances of the case, though an unconditional apology is tendered by the respondent Nos.1 and 2, the manner in which they deliberately and willfully disobeyed the orders of this Court, they deserve no leniency and this Court is declined to accept such unconditional apology.

11. For the reasons mentioned above, we hold that respondent Nos.1 and 2 have deliberately and willfully disobeyed the orders of this Court passed by a Hon’ble Division Bench of this Court in W.A. No.277 of 2020 and batch, on 17.12.2021 and they are liable to be punished for the same.

12. Accordingly, the Contempt Case is allowed. The respondent Nos.1 and 2 are sentenced to suffer simple imprisonment for a period of two (02) months and to pay a fine of Rs.2,000/- (Rupees Two Thousand Only) each, within four (04) weeks from today. The petitioners are directed to deposit subsistence allowance @ Rs.500/- per day within four (04) weeks. The sentence of imprisonment imposed on the respondent Nos.1 and 2 is suspended for a period of six (06) weeks from today.”

He submitted that the High Court ought to have accepted the unconditional apology tendered by the appellants herein as there was clearly no deliberate and willful disobedience of the order passed by the High Court on 17.12.2021.

In this regard, our attention was drawn to the order dated 17.12.2021 passed by the Division Bench of the High Court in Writ Appeal Nos.270, 277 and 268 of 2020, the relevant portion of the said order reads as under:

“The NTPC is going ahead with the process of selection for the post of Group “D” employees based upon the policy decision to grant employment to the land oustees and since 2017 the recruitment is held up on account of litigation. The NTPC has adopted a transparent procedure by holding a written examination and has amended the rules also and this Court does not find any fault with the decision taken by the NTPC in setting aside the Notification dated 15.05.2015 and by issuing a fresh Notification on 12.03.2017. Even if it is assumed that the NTPC has earlier held the process of interview, the process of recruitment was not finalised and no appointments were made by the NTPC pursuant to the advertisement dated 15.05.2015 and it is a well settled proposition of law that inclusion in the selection list does not confer a right upon an individual for appointment.

The reasons for cancelling the earlier advertisement dated 15.05.2015 are cogent and valid reasons and as the NTPC is now adopting a transparent process, the impugned order passed by the learned Single Judge is set aside. The NTPC is directed to conclude the entire process of subject recruitment within a period of two months from today issue consequential appointment orders.

With the aforesaid, the writ appeals stand allowed. The miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.”

Learned Solicitor General submitted that having regard to the directions issued by the High Court to conclude the entire process of recruitment within a period of two months from that day and to make the consequential appointment orders, the process of appointment was taken forward, the select list has also been made. However, the appointment orders have only been provisionally issued in view of the Contempt Petition initiated by the respondents herein.

He submitted that this is a case where this Court may interfere in the matter and pass an appropriate order.

12. Learned counsel Mr. Arun K. Sinha submitted that the reasons as to why the respondents were constrained to file the Contempt Petition was on account of the fact that the respondents were the land *oustees* who are entitled to be considered for appointment and in fact their names were earlier found in the select list of 2015. However, no appointments were made and therefore they were constrained to file the Contempt Petition. He, however, submitted that the reasons for not accepting the unconditional apology tendered by the appellants herein by the High Court may be considered and appropriate orders may be made in the Contempt Petition. He further submitted that the appellants may be directed to consider the case of the respondents herein for appointment in the appellants' company.

13. On perusal of the judgment dated 17.12.2021, it does not emerge that it barred the appellants from issuing a fresh notification so as to complete the process of recruitment. The said judgment only directed that the process of recruitment be completed within a period of two months and appointment orders be issued to the successful candidates. Whether the recruitment was to be concluded in pursuance of the notification of 2017, or by way of issuing a fresh notification, was not specified in the said judgment and therefore, in our view, this aspect of the matter was left to the discretion of the appellants. In the absence of a specific direction to the effect that the recruitment be concluded in pursuance of the notification of 2017 alone, we are unable to hold that issuance of a fresh recruitment notification would constitute contempt of court. The timeline for completion of recruitment was stipulated by the court, while the manner in which the recruitment was to be completed, was the prerogative of the appellants.

We also take note of the contention of the Learned Solicitor General that only provisional appointment orders could be issued in view of the fact that the contempt petition initiated by the respondents, was pending.

14. Having heard the learned Solicitor General for the appellants and the submissions made by the learned counsel for the respondents in light of what we have extracted above and in the light of the order dated 17.12.2021 passed by the High Court, we find that there has been no "deliberate and willful" disobedience of the orders of the High Court. In fact, the appellants herein had also tendered an unconditional apology on the premise of an alleged violation of the order of the High Court dated 17.12.2021. Even if the High Court came to a conclusion that there was a deliberate and willful disobedience of the order of the court, it could have considered the said unconditional apology tendered by appellants and concluded the matter. However, we find that the High Court has, instead of considering the unconditional apology tendered by the appellants herein, sentenced them to suffer simple imprisonment and pay fine. We do not think that the said punishment imposed was correct having regard to the facts of the case and the order passed by the Division Bench of the High Court on 17.12.2021.

15. In the facts and circumstances of this case, we find it appropriate to accept the unconditional apology of the appellants herein and consequently set aside the sentence imposed on them. The Civil Appeals are allowed and disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.