

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

Miscellaneous Application No 1143 OF 2021
in
Contempt Petition (Civil) Nos 405-407 of 2019
in
Civil Appeal Nos 11948-11950 of 2016

Sudhanshu Ranjan

... Petitioner(s)

Versus

Amit Khare & Ors

... Respondent(s)

ORDER

- 1 By the order of this Court dated 26 September 2018, Civil Appeal Nos 11948 -11950 of 2016 were disposed of in the following terms:

“10 While affirming the judgment of the Tribunal, we clarify that

- (i) promotions which have already been effected and the existing seniority shall not be affected;
- (ii) in the case of employees who have retired, a notional pay fixation shall be carried out and retiral benefits, including pension, if any, shall be determined on that basis; and
- (iii) individual cases for promotion would be considered against vacancies available, keeping seniority in view.”

- 2 Contempt proceedings were initiated for non-compliance. The contempt proceedings were disposed of on 29 November 2019 in terms of the following order:

“Mr Vikramjit Banerjee, learned Additional Solicitor General states that a letter has been addressed today [29 November

2019] by the Union of India in the Ministry of Information and Broadcasting to the Union Public Service Commission forwarding a proposal for convening a limited Review DPC for the years 2003-04 to 2007-08 for considering three Senior Time Scale officers for promotion to Junior Administrative Grade of Programme Management Cadre of IB(P)S in the Directorate General of Doordarshan.

Since steps have been initiated now, we are of the view that the authorities have taken steps to comply with the judgment and order passed by this Court on 26 September 2018. We direct that all steps for implementing the judgment and order of this Court dated 26 September 2018 shall be completed within a period of three months from today. All consequential steps required to be initiated in terms of the judgment and order of this Court shall also be initiated within a period of one month from today and completed within three months.

The contempt petitions are disposed of leaving it open to the petitioners to apply for revival of the contempt proceedings in the event that it becomes necessary to do so in future.”

- 3 Since the grievance of the petitioner is that the order has not been complied with, this Miscellaneous Application is filed for revival of the contempt proceedings. The petitioner continues to be in service.
- 4 We have heard Mr K K Rai, Senior Counsel appearing on behalf of the petitioner and Mr K M Nataraj, Additional Solicitor General for the Union of India.
- 5 Mr K K Rai submits that the following upgradations, or, as the case may be, promotions have been granted to the petitioner, but no arrears of salary have been granted:
 - (i) On 12 December 2019, from Junior Time Scale to Senior Time Scale (with effect from 29 June 1998);
 - (ii) On 6 January 2020, to the Junior Administrative Grade (Selection Grade) (with effect from 1 January 2006); and
 - (iii) On 4 March 2020, from Junior Administrative Grade to Senior

Administrative Grade (with effect from 1 April 2007).

- 6 The submission of the petitioner is that para 10(ii) of the directions in the judgment of this Court dated 26 September 2018 envisage that in the case of employees who have retired, a notional pay fixation is to be carried out and the retiral benefits, including pension, are to be determined on that basis. However, it is urged that the case of the petitioner does not fall within paragraph 10(ii) of the directions of this Court which concern only retired employees.
- 7 A compliance affidavit has been filed on behalf of the first respondent by the Secretary in the Ministry of Information and Broadcasting. Reliance is placed on an OM dated 10 April 1989 to buttress the plea that the petitioner has been granted the full pay scale with pay fixation for JAG (SG) on a notional basis with effect from 1 April 2007 in PB-4 Scale of Rs 37400 – 67000 with Grade Pay of 8700. This pay fixation was made notional up to 11 March 2020 on the ground that the petitioner has not worked on the previous post, till date and with effect from 12 March 2020, it was ordered that he will draw salary on a regular basis.
- 8 We are unimpressed by this explanation in the compliance affidavit. The reason why the petitioner could not avail of his promotion earlier was due to the fault of the authorities. The judgment of the Tribunal was delivered on 8 November 2000. There was no stay of the decision of the Tribunal or of the High Court affirming it. Consequently, it is the failure of the Ministry of Information and Broadcasting to implement the binding judgments of the Tribunal and the High Court and eventually of this Court which has led to the present situation. Even after the judgment of this Court, no steps were taken. As a result, contempt proceedings had to be instituted which were disposed of on the assurance of the ASG who appeared on behalf of the Ministry of Information and Broadcasting that the directions would be complied with. Now, this Miscellaneous Application

has been filed for revival of the contempt proceedings because of non-compliance. There is a clear non-compliance with the directions of this Court. The grant of notional promotions to a person in service does not effectuate compliance. Arrears of pay have to be paid over. Had there been compliance with the judgments of the Tribunal and High Court (which have been confirmed by this Court), the petitioner would have received promotion earlier. The petitioner has been deprived of this due to the delay of the respondents.

9 In these circumstances, the Ministry of Information and Broadcasting is in contempt of the judgment of this Court. We accordingly impose a fine of Rs 1,00,000 on the respondents. The fine shall be paid over to the National Legal Services Authority within four weeks and shall be recovered from the officers responsible for compliance. The actual benefits including arrears of salary shall be paid over to the petitioner with effect from the date on which the upgradation or, as the case may be, promotion, has been granted to him within a period of one month from the date of the order. The petitioner would be entitled to interest at the rate of 6% per annum on the arrears of the salary.

10. The Miscellaneous Application is accordingly disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[M R Shah]

New Delhi;
August 16, 2021
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SECTION XII-A

**Miscellaneous Application No.1143/2021 in
CONMT.PET.(C) No. 405-407/2019 in
C.A. No. 11948-11950/2016**

Petitioner(s)

Respondent (s)

Date : 16-08-2021 This application was called on for hearing today.

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Respondent(s) Mr. K M Nataraj, ASG
 Mr. Mohammed Akhil Nazeer, Adv.
 Mr. Sachin Sharma, Adv.
 Mr. Nachiketa Joshi, Adv.
 Mr. Amrish Kumar, AOR
 Mr. Gurmeet Singh Makker, AOR

 Mr. Rajeev Sharma, Sr. Adv.
 Mr. Uddyam Mukherjee, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Miscellaneous Application is disposed of in terms of the signed order.

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

(Signed order is placed on the file)