

(2023) 11 AP CK 0012

Andhra Pradesh High Court - Amaravati

Case No: Contempt Case No. 5204 Of 2022

I Jagannadham

APPELLANT

Vs

Ajana Sinha, I.P.S & Others

RESPONDENT

Date of Decision: Nov. 10, 2023

Acts Referred:

- Contempt Of Courts Act, 1971 - Section 10, 11, 12
- Central Civil Services (Pension) Rules, 1972 - Rule 17, 18, 19, 20

Hon'ble Judges: Dr. K. Manmadha Rao, J

Bench: Single Bench

Advocate: V Padmanabha Rao, J U M V Prasad

Final Decision: Disposed Of

Judgement

K. Manmadha Rao, J

1. This Contempt case has been filed to punish the contemnors/respondents under the provisions of Contempt of courts Act 1971 for violation of the orders and for not implementing the orders of this Court in W.P.No.17574 of 2011 dated 19.07.2022.

2. Heard Sri V. Padmanabha Rao, learned counsel appearing for the petitioner and Sri J.U.M.V. Prasad, learned Government Pleader appearing for the respondents.

3. This Court, vide order, dated 19.07.2022, in W.P.No.17574 of 2011, has allowed the said writ petition. The operative portion of the said order:

“.....Accordingly, the Writ Petition is allowed with the following direction:

i) The impugned proceedings of the 2nd respondent VIDE No.B15015/CISF/ANU/SS/2010/1907, dated 29.03.2010; the order of appellate authority-1st respondent vide No.V15014/LR/Appeal/IJ/SS/2010/570, dated 30.07.2010 and the order of the revisional authority vide No.V-11014/112/L&R2010-642, dated 16.05.2011 are hereby set aside.

ii) Further, directing the respondents to reinstate the petitioner into service with continuity of service of 50% of the back wages and with all consequential benefits in accordance with law..."

iii) The entire exercise shall be completed within ninety (90) days from the date of receipt of a copy of this order....."

4. Learned counsel for the petitioner submits that, in pursuance of the order of this Court dated 19.07.2022 passed in WP No.17574 of 2011, the petitioner made representations dated 04.08.2022 to the respondents and the same was received by the respondents. But the respondents have not implemented the said order and the action of the respondents in not implementing the above order is completely deliberate and intentional. He further submits that the respondents have filed W.A No.790 of 2020 before a Division Bench of this Court and the same was dismissed on 09.11.2022. Therefore, the respondents wilfully and wantonly are not implementing the orders of this Court and deliberately avoiding the action of the respondents amount to punishment under Section 10 to 12 of Contempt of Courts Act and hence learned counsel requests this Court to pass appropriate orders.

5. **Per contra**, learned Standing counsel for the respondents has filed counter on behalf of the respondent No.3 and denied all the allegations made in the petition. He submits that the order of this Court has been implemented by CISF unit VSP Visakhapatnam and order of reinstatement in service in respect of the petitioner was issued vide office Order No.15710 dated 14.12.2022. Accordingly, the petitioner joined in the Unit on 16.12.2022. the intervening period of the petitioner from the date of compulsory retirement from service with full pension and gratuity to the date of reinstatement in service i.e. from 4.4.2010 to 15.12.2022 including the period of suspension from 18.7.2009 to 3.4.2010 has been considered as continuity in service along with seniority, notional increments etc. vide office USO Part I Order No.106/2022 dated 17.12.2022 & USO Part I Order No.64/2023 dated 22.7.2023 respectively. He further submits that upon reinstatement in service and on the basis of Pay fixation order dated 4.1.2023 emoluments have been claimed and paid to the petitioner.

6. Learned Standing counsel for the respondent further submits that with regard to grant of promotion to the next higher rank i.e., HC/GD in respect of the petitioner, DPC proceedings for the year 2010 for promotion at par with his junior in respect of the petitioner was conducted at the Unit and the same was forwarded to AIG/Estt-I, FHQ, New Delhi through South Sector Hqrs., Chennai. He further submits that since the petitioner has already been granted financial benefit in the rank of HC/GD, so there is no provision to grant him further benefit in the same rank on regular/notional promotion. In compliance to the JO dated 19.7.2022 the payment of 50% back wages for the period from 4.4.2010 to 15.12.2022 and Ad-hoc bonus for the said period was claimed and paid to the petitioner after deducting the pension and pensionary benefits, professional tax and income tax. In view of the above, the

directions of this Court, the petitioner was reinstated into service w.e.f 16.12.2022 and the intervening period from the date of Compulsory retirement from service with full pension and gratuity to the date of re-instatement in service i.e., from 4.4.2010 to 15.12.2022 has been treated as On Duty for all purposes. Further in view of the extant provisions and subsequent clarificatory remarks received from RPAO CISF Chennai, the total amount of pension and penionsary benefits were already drawn by the petitioner including applicable rates of GPF for Rs.9,80,388/- recovered from the petitioner concerned from the payment of 50% back wages on 2.4.2023 has been deposited into Government.

7. Learned Standing Counsel further submits that the petitioner's superannuation retirement pension and Pensionary benefits w.e.f. 31.12.2022 has been finalized by Regional Pay and Accounts office, Chennai vide Audit Enfacement issued under letter No.698 dated 29.4.2023 to be payable to the petitioner.

8. On perusing the entire material, this Court observed that, vide order dated 29.09.2023 this Court directed the concerned officer to appear before this Court on the next date of hearing for giving clarification with regard to the deduction of interest on the amounts payable to the petitioner, and on 3.11.2023, the concerned 3rd respondent has appeared.

9. As seen from the proceedings dated 2.8.2023 addressed to the learned Standing Counsel for Central Government, by the Office of the Commandant, Central Industrial Security Force, with regard to payment of pensionary benefits and pension of the petitioner, it was mentioned that as per Rule-17 to 20 of CCS Pension Rules, 1972, in order to avail the benefit of counting of past service i.e. from the date of appointment to the date of relieving from service on Superannuation retirement, the individual is required to refund the pension & pensionary benefits received by him for the service already rendered by him in CISF with applicable rate of interest of GPF as determined by Govt. of India from time to time. Further, on processing the case for payment of pension and pensionary benefits by CISF unit VSP Vizag, the Regional Pay & Accounts office, Chennai vide their letter No.(521) dated 25.03.23 has issued a clarificatory remarks that applicable rate of interest may also be recovered on the pension drawn by the individual.

10. It is pertinent to mention here that, as per Central Civil Services (Pension) Rules 1972 (for short "the Rules"), the Chapters 17 to 20 have to be discussed :

Chapter 17 :

Counting of service on contract;

Chapter-18 :

Counting of pre-retirement civil service in the case of re-employed Government Servants;

Chapter-19 :

Counting of military service rendered before civil employment; and

Chapter-20 :

Counting of war service rendered before civil employment.

11. On observing the above Chapters, it is clear that the petitioner herein is not belonging to the above category. Therefore, the respondents have to pay all the pension and penisoanry benefits in total with all consequential benefits to the petitioner without deducting the rate of interest.

12. Having regard to the facts and circumstances of the case, this court is of the considered view that, as the petitioner is not coming under the above Chapters of the Rules, directing the respondents to comply the orders of this Court in letter and spirit, within a period of two (02) months from the date of receipt of a copy of this order.

13. Insofar as seniority of the petitioner is concerned, he is at liberty to raise his grievance by filing a fresh petition before appropriate authority in accordance with law.

14. With the above observation, the Contempt Case is closed. There shall be no order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.