

(1998) 11 AHC CK 0071

In the Allahabad High Court

Case No : Contempt Appeal No. 14 of 1998, all Contempt Appeal No. 7 of 1998 D.S. And Contempt Appeal No. 8 of 1998 D.S. Contempt Appeal No. 13 of 1998 D.S. Contempt Appeal No. 12 of 1998 D.S. And Contempt Appeal Nos. 9, 10 and 11 of 1998 D.S

Batra and others, Batra and others

APPELLANT

Vs

Lal Chand Singh and others, Vinai Kumar Singh and others

RESPONDENT

Date of Decision : 24-11-1998

Acts Referred:

Contempt of Courts Act, 1971 — Section 10, 11

Citation : (1998) 11 AHC CK 0071

Hon'ble Judges : D.P.Mohapatra, CJ and R.R.K.Trivedi, J

Final Decision : Disposed Of

Judgement

R.R.K. Trivedi, J.—All the aforesaid appeals are from the various orders passed in Civil Contempt Petition No. 31 of 1996 and Civil Contempt Petition No. 1629 of 1996 and on the applications moved in the aforesaid contempt petitions. Both the above contempt cases were being heard together before the learned Single Judge. Thus similar questions of law and facts are involved in these appeals which are being decided by a common judgment with the consent of the learned Counsel for the parties. Contempt Appeal No. 7 of 1998 shall be the leading case.

2. For proper appreciation of the rival submission made by the learned Counsel for the parties in the aforesaid appeals. It is necessary to mention the disputes between the parties which were decided by this Court and by Hon''ble Supreme Court by different orders, the willful disobedience of which was alleged in Contempt Petition No. 31 of 1996 and 1629 of 1996.

3. Writ Petition (C) No. 534 of 1991 was filed before Hon''ble Supreme Court under Article 32 of the Constitution of India by the respondents and others, employees of the U.P. Bridge Corporation (hereinafter referred to as the Corporation) which a Public Sector Undertaking of the State of U.P., claiming the reliefs. The first relief was regarding appropriate salary for the work done and

the second relief was for regularisations of services. This petition along with other writ petition No. 766 of 1991 was disposed of on 29.8.1991. So far as payment of appropriate salary is concerned, Hon"ble Supreme Court held as under :

"It is difficult to accept this contention. The petitioners degree holders are paid at the same rate as the regular degree holders. There is no reason to make distinction between petitioners diploma holders and the regular diploma holders. Besides, even under the Minimum Wages Act, a paid day of rest for every period of seven days is mandatory. The diploma degree holders among the petitioners should, therefore, be paid Rs. 1400/ per month."

So far as regularisation as concerned, Hon"ble Supreme Court held as under :

"Counsel for the Corporation has, and we must accept the position that this argument is justified that all such vacancies which would occur henceforth, shall ordinarily be filled up by regularising employees like the petitioners who are directly employed by the Corporation and as and when that is not possible for same reason, on temporary basis deputationists may be accepted so as to ensure that no deputationist functions for more than six months. Persons already on deputation are not intended to be covered by this Orders. As and when the Corporation suggests to Government for filling up of the vacancies, we suggest that Government may consider the request favourably and with a sense of immediacy."

The writ petitions are disposed of. No order for costs."

4. After the aforesaid order was passed by the Hon"ble Supreme Court, the Corporation on 28.10.1991 retrenched the respondents from service which was challenged in writ petition No. 34989 of 1991 by Vinai Kumar Singh, Ajai Kumar Singh and Om Prakash Pandey. In this writ petition an interim order was passed on 13.1.1992 to the following effect:

"Issue notice. In the meanwhile the respondents are directed not to fill up any vacancy in the post of work supervisor/junior engineer existing or occurring hence forth in any of its projects without first considering the petitioners for appointment against such vacancies."

5. Taking into consideration the order of Hon"ble Supreme Court dated 17.9.1991, mentioned above, with regard to regularisation, a Division Bench of this Court decided the aforesaid writ petition finally by order dated 11.11.1992. The operative part of the order is being reproduced below :

"After considering the rival submissions made by the learned Counsel appearing for respective parties and after perusing the records, we direct the respondents that within 15 days from the date of production of certified copy of this order, necessary appointment orders be issued in favour of petitioners. With the above direction, the writ petition is disposed of accordingly."

6. Above order of the Division Bench was challenged by the Corporation before Hon"ble Supreme Court in Civil Appeal No. 1595 of 1993, which was decided by Hon"ble Supreme Court by order dated 14.2.1995. The operative part of the judgment reads as under:

"Learned Counsel for the Corporation very fairly states that the Corporation is willing to reemploy the respondents on the available vacancies. The only contention raised by the learned Counsel for that all these retrenched supervisors who joined the Corporation on different projects earlier to the respondents either as Assistant Engineers or Junior Engineers, to be considered for reemployment earlier to the respondents. Learned Counsel for the respondents have no objection to this method of making reappointments, we modify the High Court order to the above extent and dispose of the appeal. No costs. Needless to say, that the Corporation shall expedite the filling up of the vacancies and preferably within four months from today."

7. Some of the respondents in the above contempt petitioners filed separate writ petitioners which were registered as writ petition No. 3279 of 1992, Lal Chand Singh and others v. Deputy Project Manager, Bridge Corporation (Consruetion) Unit, Varanasi and others and Writ Petition No. 4438 of 1992, Krishna Dev Singh and others v. Deputy Project Manager, Bridge Corporation (Construction) Unit, Varanasi and others. Both these petitions were finally decided by order dated 25.4.1995 following the order dated 11.11.1992 passed by the Division Bench and the order dated 14.2.1995 of Hon"ble Supreme Court. The operative part of the order which was similar in both the above petitions, is being reproduced below:

"Accordingly, this writ petition is disposed of with a direction upon the respondents that within four months from the date of production of a certified copy of this order, the necessary appointment orders be issued in favour of the petitioners and the respondents are entitled to consider the case of reemployment of the other retrenched supervisors who joined the Corporation on different projects earlier to the present writ petitioners either as an assistant engineer or junior engineer against the available vacancies." All the appointment orders were not issued, Vinai Kumai Singh and others filed contempt petition No. 359 of 1995 in Civil Misc. Appeal No. 1595 of 1993 before Hon"ble Supreme Court. This contempt petition was disposed of on 15.12.1995 by the following order:

"If our order is not being complied with, the petitioners may approach the High Court for any appropriate directions. The contempt petition is disposed of."

8. In the aforesaid background Vinai Kumar Singh and two others filed Civil Misc. Contempt Petition No. 31 of 1996 alleging wilful disobedience of the order dated 11.11.1992 passed in Civil Misc. Writ petition No. 34989 of 1991 as modified by Hon"ble Supreme Court by judgment dated 4.2.1995 (in Civil Appeal No. 1595 of 1993).

9. Lal Chand Singh and five others (petitioners of writ petition No. 3279 of 1992 and writ petition No. 4438 of 1992) filed Civil Misc. Contempt Petition No. 1629 of 1996 alleging wilful disobedience of the order dated 25.4.1995. Both the above Contempt petitions were heard together by learned Single Judge. In Contempt Petition No. 31 of 1996 learned Single Judge passed by the order on 21.8.1996 to the following effect:

"so far I have been able to understand this judgment of Hon"ble Supreme Court, the respondents have nonly course left is that they have to prepare two listsone of those who have worked and who have been employed earlier to the writ petitioners and the second list will be of those persons who are employed as petitioners were and their junior. Thereafter the respondents shall clearly make out a list of vacancies available to them and after adjusting the members of these two lists, the remaining posts shall be filled in by new persons but under no circumstances these persons will get any precedence over the petitioners. Learned Counsel further states that he wants to hold an examination for judging the suitability of the candidates.

I think it will not be legally proper for them in the teeth of the Hon"ble Supreme Court judgment. So far as petitioners are concerned, they will not be called upon to appear in the examination halls because halls shall be open only for those who are beyond these lists and entirely new persons. Therefore, only their suitability has to be judged and certainly not of all the petitioners and others like them. Shri Rajvanshi, learned Counsel for the respondents, undertakes before this Court that two lists shall be prepared over a period of 11/2 months from today and they will be filed in this Court on 15.10.1996 positively. List for further orders on 15.10.1996.

Learned Counsel for the petitioners files a supplementary affidavit. Its copy has already been given to Shri Rajvanshi. He may file a reply, if he so likes, within 15 days."

10. On 4.12.1996, learned Single Judge passed the order that his order dated 21.8 .1996 has not been complied with. He granted 15 days time to comply with the order. A similar order was passed in contempt petition No. 1629 of 1996. On 12.12.1996 the Corporation issued appointment orders in favour of nine persons appointing them against different projects. On 8.1.1997, both the contempt petitions were dismissed by the following order:

"shri N.C. Rajvanshi, learned Counsel, admits and agrees that the petitioners in both the aforesaid petitions shall be reposted at the same place in the list as they were on the date of retrenchment and they shall be paid salary according to the scale treating as of there was no retrenchment at all. It means that the arrears of salary and other benefits shall also be payable to them. Respondents are directed to do so accordingly.

The order dated 12.12.1996 issued by the Managing Director, U.P. State Bridge Corporation, Lucknow, covers the case of Sarv/Sri Ajai Kumar Singh, Om Praksh

Pandey, Vinai Kumar Singh, Krishna Dev Singh, Satya Narain Pandey, Lal Chand Singh, Om Shankr Ram, Ambrish Singh and Anil Kumar Dubey.

This way, prima facie, it appears that the order passed by this Court duly confirmed by Hon''ble Supreme Court has been complied with. Therefore, there is no question to proceed in the contempt jurisdiction.

The petitions are dismissed accordingly. Needless to say that the seniority of the petitioners shall be considered as it existed on the date of their retrenchment. It is made clear that if subsequently the posts have been redesignated as junior engineer/assistant engineer, that position will be maintained by the respondents in respect of the petitioners as well."

11. This order dated 8.1.1997 has been challenged in Contempt Appeals Nos. 9 and 14 of 1998.

12. Civil Misc. Modification Application No. 82098 of 1997, dated 16.12.1997 was filed (in Court) on 17.12.1997 by appellants seeking modification in the order dated 8.1.1997. This application was rejected by learned Single Judge by order dated 1.12.1997. The learned Judge refused to accept the plea of the appellants that the statement was not made by Shri N.C. Rajvanshi before him on 8.1.1997. After referring to the order dated 14.2.1995 of the Hon''ble Supreme Court, the learned Judge observed in his order dated 1.12.1997 as under in paras 5, 6, 7, 8 (written twice) and 9 which are being reproduced below :

xx xx xx xx xx xx xx xx xx xx xx xx

"5. On the basis of these admissions before the Hon''ble Supreme Court aforesaid, the order was passed by the Hon''ble Apex Court. In the context of that order passed by the Hon''ble Supreme Court the aforesaid observations have been made in the impugned judgment dated 8.1.1997 containing the admission and agreement made by Shri Rajvanshi, learned Senior Counsel, hence it cannot be deleted as it forms the very basis of the order dated 8.1.1997. It appears that as and when it is convenient, the admissions are made and they are denied according to the exigencies of the time and opportunity. That is not proper.

6. A similar view was expressed by Hon''ble A. Chakravarty, J. In Civil Misc. Writ Petition No. 3279 of 1992, Annexure1.

7. I do not find that my order suffers from any illegality or it does not contain true facts as admitted before the Court. Therefore, the request for recall of my order dated 8.1.1997 is rejected.

8. As regards the interpretation of the order of Hon''ble Supreme Court by me, there may be legal errors committed by me at the most, but these errors, if at all, can be corrected only the Hon''ble Supreme Court and not by this Court, hence this recall application is rejected.

It is expected now that the respondents shall carry out the directions given by the Hon''ble Apex Court as interpreted by me 8.1.1997 and allow the petitioners

either legal dues without any further loss of time.

9. List on 18.12.1997 for further orders along with civil misc. Contempt Petition No. 31 of 1996."

13. This order dated 1.12.1997 has been challenged in Contempt Appeals Nos. 10 and 12 of 1998.

14. Respondents Vinai Kumar Singh and two others filed Civil Misc. Contempt Application No. 54146 of 1997, under Article 215 of the Constitution of India in .Contempt Petition No. 31 of 1996 alleging that the opposite parties have wilfully fluted with the judgment of the Court dated 8.1.1997 passed by a Learned Single Judge in Civil Misc. Contempt Petition No. 31 of 1996. On this application notice was issued on 21.8.1997. The record was summoned; the application was directed to be listed on 22.9.1997. It was further ordered that applicantsrespondents shall not be compelled to appear in the examination scheduled on 22.8.1997. On this application order dated 24.10.1997 was passed to the following effect :

"Heard learned Counsel for the parties. By the order dated 18.10.1995, U.P. Rajya Setu Nigam Ltd., 16, Madan Mohan Malviya Marg, Lucknow, the respondent, charged the designation in pursuance of Hon"ble Supreme Court as follows: Supervisor Grade 1 (Engineering Degree holders) and Supervisor Grade II(Engineering Diploma holders) were redesignated as Assistant Engineers (Sahayak Abhiyanta) and Junior Engineers (Avar Abhiyanta). This document is Annexure 2 to the contempt petition No. 52146 of 1997. In the letter of appointment dated 12.12.1996, which is Annexure S.C.A. I in Misc. Contempt Petition No. 31 of 1996, they are maintaining the same old designation, that is, Technical Supervisor Grade I and Technical Supervisor Grade II. Shri Rajvanshi, learned Counsel for the respondents, admits that this is a clerical error. That shall be corrected by the Deptt. and he shall be would file the corrected order. List for orders on 25.11.1997."

15. This order is in the order sheet of Misc. Case No. 52146 of 1997 which has been challenged in Contempt Appeals Nos. 11 and 13 of 1998.

16. In Civil Misc. Modification Application No. 82098 of 1997 mentioned above, learned Single Judge passed another order on 6.1.1998 which is in Hindi and is being reproduced below :

17. This order has been challenged in Contempt Appeals Nos. 7 and 8 of 1998. By an interim order dated 23.1.1998 passed in Contempt Appeal No. 7 of 1998, the operation of the impugned order dated 6.1.1998 and all further proceedings in contempt case were stayed.

18. We have heard Shri N.C. Rajanvashi, learned Senior Advocate, for the appellants, Shri Ravi Kiran Jain, learned Senior Advocate, and Shri K.M. Asthana, appearing on behalf of the respondents.

19. Learned Counsel for the appellants has submitted that the order dated 11.11.1992 of this Court merged in the order of Hon''ble Supreme Court dated 14.2.1995, passed in Civil Appeal No. 1595 of 1993 and the contempt petition, if any, for the alleged disobedience of the order could be filed before Hon''ble Supreme Court and not in this Court. For this submission learned Counsel for the appellants has placed reliance on Sections 10 and 11 of the Contempt of Courts Act, 1971 (hereinafter referred to as the Act). Learned Counsel for the petitioners has submitted that the contempt proceedings before this Court for committing contempt of the order of the higher Court cannot be maintained and the orders passed by the learned Single Judge are liable to be set aside on this short ground as they are without jurisdiction. Learned Counsel has further submitted that in any view of the matter the respondents filed Contempt Petition No. 359 of 1995 before Hon''ble Supreme Court alleging that the appellants have disobeyed the order but Hon''ble Supreme Court did not think it proper to initiate proceeding against the appellants for committing contempt of the Apex Court and directed petitioners to approach High Court or any appropriate direction. As the contempt petition has been decided by Hon''ble Supreme Court, the present contempt petitions could not be filed in this Court for the same purpose.

20. It has been further submitted that in view of the order dated 15.12.1995 passed by Hon''ble Supreme Court the course open to the respondents was to file another writ petition under Article 226 of the Constitution of India for fresh directions. The contempt petition was not legally maintainable. Learned Counsel has also submitted that the learned Single Judge in exercise of the contempt jurisdiction could not legally enlarge the scope of the relief granted by the Division Bench and Hon''ble Supreme Court. It could only compel compliance of the order as passed. Learned Counsel has further submitted that ,the learned Single Judge committed a serious illegality in giving such directions which were neither raised nor considered by Hon''ble Supreme Court and by this Court: It has been further submitted that the learned Single Judge in his order dated 21.8.1996 interpreted the order and directed preparation of two lists for purposes of giving reemployment against the vacancies. Though learned Single Judge was not correct in saying that appellants cannot hold examination/tests in judging suitability of the candidates who were being regularized on permanent basis. Learned Single Judge, however, in his order dated 8.1.1997 himself interpreted the order of this Court as well as of the Apex Court and illegally introduced the concept of reinstatement of the respondents which was never ordered by this Court or by the Apex Court. The learned Single Judge in his order dated 1.12.1997 has accepted that it was his interpretation but it was put in the mouth of the Counsel for the appellants and has been recorded as a concession on the part of the Counsel. It has been submitted that for making such concession he was never instructed by the appellants and no relief can be granted to the respondents on the basis of the same. The learned Single Judge has taken contradictory view in interpreting the same orders of this Court and Hon''ble Supreme Court on two different dates. The appellants in all bonafides

made an application for modification on recall of the order giving directions which have were not contemplated by this Court and by the Apex Court but the modification application was illegally rejected. The applications were not only rejected but the contempt proceedings were revived which had been dismissed by order dated 8.1.1997. Learned Counsel has submitted that he did not make any such concession. Reliance has been placed in case of Tripura Goods Transport Association and another v. Commissioner of Taxes and others, AIR 1998 SC 465.

21. Learned Counsel for the respondents, on the other hand, submitted that the statement made before the Court was challenged before the same learned Single Judge and it was not accepted. No appeal lies against this order. Learned Counsel has also submitted that the compliance of the order passed by the Court is the main objection of the contempt proceedings. If the orders passed by the learned Single Judge subserve the ends of justice, this Court may refuse to interfere in appeal. Learned Counsel has further T submitted that by orders date 24.10.1997 and 6.1.1998 nothing has been decided and the appeals against these orders are not legally maintainable. Learned Counsel for the respondents has also submitted that the order of Hon''ble Supreme Court dated 15.12.1995 is wide enough to include a proceedings of contempt initiated in this Court for obtaining appropriate direction and the submission on behalf of the appellants that the contempt petition is not maintainable in this Court has no substance. In the alternative, it has been submitted that in contempt petitions wilful disobedience of the orders passed by this Court was also challenged. The order of this Court dated 11.11.1992 remained intact except for a minor modification by the Hon''ble Supreme Court. The order of Hon''ble Supreme Court is to be read in the light of Article 144 of the Constitution of India. The High Court is superior Court of record constituted by the constitution and it shall have all the powers to determine its own jurisdiction to ensure rule and the majesty of law in this country. It has also been submitted that the orders of this Court and the Apex Court have not been complied with by the appellants till date as neither the respondents have been granted appointment on the sanctioned posts of junior engineer and assistant engineer or any wages have been paid. The wilful disobedience on the part of the respondents is still continuing and thus they are not entitled for any sympathy.

22. Learned Counsel has placed reliance on cases of Supreme Court Bar Association v. Union of India and another, (1998) 4 SCC 409, State of Maharashtra v. Ram Das Nayak, AIR 1982 SC 1149, Delhi Judicial Services Association v. State of Gujarat and others, AIR 1991 SC 2176, M. V. Elisabeth and others v. Harwen Investment and Trading Company and another, AIR 1993 SC 1014, The Aligarh Municipal Board and others v. Ekka Tango Mazdoor Union and others, AIR 1970 SC 1767 and Naresh Shridhar Mirajkar and others v. State of Maharashtra and another, AIR 1967 SC I.

23. We have thoroughly considered the submissions of the learned Counsel for the parties and, in our opinion on the submissions made by them the following

questions require determination by us for deciding these appeals:

1. Whether the learned Single Judge was justified in giving fresh directions by his orders dated 8.1.1997 and 1.12.1997 and whether such directions can be justified on the basis of the orders dated 11.11.1992 and 25.4.1995 passed by this Court and order dated 14.2.1995 of Hon"ble Supreme Court?
2. Whether the concessions made by the learned Counsel for the appellants made by the learned Orders by the Learned Single Judge can be disputed in appeal and whether the orders passed by the learned Single Judge can be justified on the basis of such concessions even though the directions given therein are not justified on consideration of the orders, the implementation of which was sought in the contempt proceedings?
3. Whether the contempt proceeding filed in this Court for punishing the contemnors committing wilful disobedience of the order passed by Hon"ble Supreme Court is legally maintainable?
4. Whether the contempt proceedings initiated in this Court were not legally maintainable in view of the order of Hon"ble Supreme Court dated 15.12.1995 passed in Contempt Petition No. 359 of 1995?
5. Whether Contempt Appeals Nos. 11 and 13 of 1998 challenging the order dated 24.10.1997 and Contempt Appeals Nos. 7 and 8 of 1998 challenging the order dated 6.1.1998 are not legally maintainable?
6. What relief, if any, can be granted to the appellants in the facts and circumstances of the case?

24. As on behalf of the appellants maintainability of the contempt proceedings is Contempt Case No. 31 of 1996 and 1629 of 1996 have been challenged, we propose to first decide questions Nos. 3 and 4. The submission on behalf of the appellants was that this Court cannot initiate contempt proceedings for committing wilful disobedience of the order of the Hon"ble Supreme Court which is a superior Court. For this submission reliance has been placed on Sections 10 and 11 of the Contempt of Courts Act which provide that a High Court shall have jurisdiction to inquire into any try a contempt of itself or of any Court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction and whether the person alleged to be guilty of contempt is within or outside such limits.

25. Learned Counsel for the respondents, on the other hand, submitted that High Court is a superior Court established by the Constitution of India and being superior Court, High Court has inherent power to determine its jurisdiction and if jurisdiction has been determined it cannot be questioned. Reliance has been sought for this submission in case Supreme Court Bar Association v. Union of India (supra), decided by Hon"ble Supreme Court. It is true that under Sections 10 and 11 of the Contempt of Courts Act, it has been provided that a High Court shall have jurisdiction to inquire into or try a contempt of itself or of any Court

subordinate to it which in other words excludes jurisdiction of the High Court to inquire into and try a contempt of other superior Courts, but in the facts and circumstances of the present case, we are not required to enter into discussion of this question for the following reasons.

26. Civil Contempt Petition No. 1629 of 1996 was filed by respondents alleging wilful disobedience of the order dated 25.4.1995 passed by this Court in writ petitions nos. 3279 of 1992 and 4438 of 1992. The order passed by the learned Single Judge of this Court was not challenged either in special appeal or before Hon''ble Supreme court. Thus the objection raised against the maintainability of the contempt proceedings cannot be applicable to the above case.

27. So far as the Contempt Petition No. 31 of 1996 is concerned, the case of the respondents was that order of this Court dated 11.11.1992 passed in writ petition No. 34989 of 1991 as modified by order of Hon''ble Supreme Court dated 14.2.1995 has been wilfully disobeyed. Thus in this contempt petition also the grievance was nonimplementation of the order passed by this Court which was only modified to some extent by the Hon''ble Supreme Court.

28. Learned Counsel for the appellants submitted that order of this Court dated 11.11.1992 stood merged in the order of Hon''ble Supreme Court. However, we are not inclined''to accept this submission as Hon''ble Supreme Court only particularly modified the order but in substance the order passed by this Court dated 11.11.1992 remained intact. Merely because the order was slightly modified the jurisdiction of this Court to inquire into and try a contempt of itself could not be taken away. It may also be noticed that no such objections, as raised in these appeals by the appellants, was raised before the learned Single Judge. The appellants gave undertaking before the learned Single Judge to comply with the orders and infact they passed order dated 12.12.1996 by issuing appointment orders in favour of all the respondents in such compliance. In para 42 of the Supreme Court Bar Association (supra), Hon''ble Supreme Court has described contempt jurisdiction of the superior Court in the following words :

"42. The Contempt of Court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. This jurisdiction may also be exercised when the act complained of adversely affects the majesty of law or dignity of the Courts. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the Courts of law. It is an unusual type of jurisdiction combining "the jury, the judge and the hangman" and it is so because the Court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual Judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of Courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. It is a matter between the Court and the contemner and third parties cannot intervene. It is exercised in a summary

manner in aid of the administration of justice, the majesty of law and the dignity of the Courts. No such act can be permitted which may have the tendency to shake the public confidence in the fairness and impartiality of the administration of justice."

29. Thus, in our opinion, the special jurisdiction of this Court conferred by Article 215 of the Constitution of India to punish for contempt of itself could not be taken away merely on the basis that the order was modified to some extent in appeal by Hon"ble Supreme Court. This Court continued to have jurisdiction to inquire into and try contempt of itself if the initial order passed by it was not complied with. The submission of the learned Counsel for the appellants against maintainability of the contempt petitions cannot be accepted.

30. The learned Counsel also submitted that as Hon"ble Supreme Court entertained the contempt petition but instead of punishing the appellants, disposed it of by order dated 15.12.1995 giving liberty to respondents to approach the High Court for any appropriate direction, hence the contempt petition could not be entertained. In our opinion, this submission can also not be accepted. It cannot be assumed that Hon"ble Supreme Court was not aware of the provisions of Sections 10 and 11 of the Contempt of Courts Act, 1971 while passing the order dated 15.12.1995. Hon"ble Supreme Court consciously passed the order giving liberty to the respondents to approach this Court for any appropriate direction. Thus the liberty given by Hon"ble Supreme Court was not confined to any particular jurisdiction. If the respondents were satisfied that they do not need any further direction under Article 226 of the Constitution, they could file contempt petition seeking implementation of the order. We do not find anything on which basis it may be said that the contempt petition No. 31 of 1996 could be held to be barred in view of the order dated 15.12.1995 passed by Hon"ble Supreme Court. In our opinion, the submission made by the learned Counsel for the appellants challenging the maintainability of the contempt proceedings is devoid of any merit. Questions Nos. 3 and 4 are answered accordingly.

31. Questions Nos. 1 and 2 relate to the orders passed by the learned Single Judge which according to appellants contain fresh directions and could not be justified on the basis of the orders dated 11.11.1992 and 25.4.1995 passed by this Court and order dated 14.2.1995 passed by Hon"ble Supreme Court. It is submitted that the scope of the aforesaid orders could not be widened by the alleged concession made by the learned Counsel, Factum of making such concessions before the learned Single Judge has also been disputed. In our opinion, firstly, it has to be judged whether fresh directions contained in the orders dated 8.1.1997 and 1.12.1997 can be justified on the basis of the orders dated 11.11.1992, 25.4.1995 and 14.2.1995, disobedience of which was the cause of action for initiating contempt proceedings. The aforesaid three orders have been quoted in this judgment. From a close look of the orders, in our considered view, thus Court as well as the Apex Court did not give relief to the

respondents regarding reinstatement from the date of retrenchment, the arrears of salary, seniority and other benefits as observed in the order. The three orders only speak about reappointment which is entirely different from reinstatement. Reappointment means an appointment under a fresh order whereas reinstatement means restoring the employee on the same post which he held on the date of passing of the order of retrenchment/termination. The interpretation of the learned Single Judge of the aforesaid three orders regarding reinstatement was wholly unwarranted. While dismissing the contempt petitions on 8.1.1997 the directions contained therein cannot be justified in any manner. The opening paragraph of the order dated 11.11.1992 reads :

"This petition is directed against the order dated 28.10.1991, contained in Annexures 8 and 10 to the petition, whereby petitioners' services have been retrenched after due observance of the provisions of the Industrial Disputes Act and the Rules framed there under."

However, in the order itself, it has been clarified that if and when vacancies arise, the petitioner shall be considered. The Division Bench found that the retrenchment of the respondents was after the observance of the provisions of the Industrial Disputes Act. No illegality was found in any of the orders so far as this part is concerned. The Court thereafter proceeded and found that vacancies are there and, therefore, in view of the order dated 17.9.1991 passed by Hon'ble Supreme Court, they are entitled for appointment.

32. In our opinion, the concept of reinstatement introduced by the learned Single Judge was not justified in view of the clear position made out from the order itself. It is also noticeable that while passing the order dated 21.8.1996 which has also been reproduced in earlier part of this judgment, the learned Single Judge interpreted the order as an order of reemployment and not reinstatement. The learned Single Judge also directed the method how the orders are to be implemented after accommodating the candidates who were employed earlier than the petitioners. Thus the order of the learned Single Judge directing reinstatement from the date of retrenchment and payment of arrears of salary and other benefits cannot be justified in any manner.

33. The next related question is whether the directions of the learned Single Judge can be justified on the basis of the concerned made by the learned Counsel for the appellants. In our considered opinion, it could not be done on the basis of the concession made by the learned Counsel. The legal position cannot be disputed that the object, purpose and scope of the contempt proceedings is to uphold the majesty and dignity of the Courts of law and to protect the administration of justice from being maligned. It cannot be expanded to include the power to grant relief which has not been provided in the order, the implementation of which has been sought by the initiating contempt proceedings. The procedure adopted is summary and it is not adversarial. It is a matter between the Court and the contemner and third parties cannot intervene. In such proceedings substantive rights of the parties cannot be determined. If such a

course is permitted, that would be against the principles of natural justice. For determining the rights and liabilities the proper forum would be the original jurisdiction of the Court under Article 226 of the Constitution and not Contempt proceedings under the Contempt of Courts Act.

34. In our opinion, in such proceedings fresh directions creating new rights could not be granted even on the basis of the concession made by the learned Counsel for the contemner. As we have found that fresh directions could not be given by the learned Single Judge, in our opinion, it is not necessary to go into the question whether the learned Counsel had actually made concession before the learned Single Judge or not. The learned Single Judge in his order dated 1.12.1997 has in so many words said that it was his interpretation of the orders of Hon"ble Supreme Court and orders passed by this Court. For this reason also, the alleged concession made was redundant. Further, jurisdiction cannot be vested, in the Court by concession made by a party. Our conclusion is that the learned Single Judge could not give fresh directions in the order and could not compel the appellants to comply with the same. Questions Nos. 1 and 2 are answered accordingly.

35. Last question for determination is as to whether Contempt Appeals Nos. 7, 8, 11 and 13 are not legally maintainable? By order dated 6.1.1998 heard Single Judge directed the appellants to comply with the orders dated 8.1.1997 and 1.12.1997 passed by himself. It was further observed that if the orders are not complied with within ten days, action for contempt may be initiated. We have already found earlier that additional directions given in the orders dated 8.1.1997 and 1.12.1997 were wholly unwarranted and could not be legally given by the learned Single Judge. In the circumstances the learned Single Judge cannot be permitted to compel the appellants to comply with the aforesaid orders. Contempt Appeals Nos. 7 and 8 of 1998 have been filed challenging the order dated 6.1.1998. In our opinion, the appeals are legally maintainable.

36. By order dated 24.10.1997 learned Single Judge directed the appellants to correct the designation of the respondents in accordance with the order dated 18.10.1995 passed by the Corporation. The insistence was to mention the same designation in the letter of appointment dated 12.12.1996, passed in favour of the respondents. Before the learned Single Judge it was admitted by the learned Counsel for the appellants that it was on account of clerical error. The direction given was for correction of the error. We do not find that any substantial prejudice has been caused to the appellants by order dated 24.10.1997. If they had already taken decision on 18.10.1995 that Supervisor Grade I shall be known as Assistant Engineer and supervisor grade II shall be known as junior engineer, in the order of appointment dated 12.12.1996 issued thereafter the respondents should have been assigned the designation for which they were entitled under the order dated 18.10.1995. Such a mistake was liable to be corrected. In the circumstances, Contempt Appeals Nos. 11 and 13 of 1998 are not found maintainable and are liable to be dismissed.

37. The last question is as to what relief can be granted to the appellants. As it has been found that fresh directions could not be given by the learned Single Judge in the order dated 8.1.1997, appeals Nos. 9 and 14 of 1998 are liable to be allowed to that extent. However, the remaining part of the order dismissing Contempt Petitioners Nos. 31 of 1996 and 1629 of 1996 shall remain unaltered.

38. By order dated 1.12.1997 learned Single Judge rejected the application dated 16.12.1997 seeking modification in the order dated 8.1.1997, This order further directed appellants to implement his order dated 8.1.1997. In our opinion, once the learned Single Judge felt satisfied that orders have been complied with the dismissed both the contempt petitions, it was not open for him to restart the contempt petitions for further orders. The order of the learned Single Judge cannot be sustained. Accordingly, Contempt Appeals Nos. 10 and 12 of 1998 are liable to be allowed.

39. Similarly, Contempt Appeals Nos. 7 and 8 of 1998 in which order dated 6.1.1998 has been challenged are liable to be allowed as the orders of the learned Single Judge dated 8.1.1997 and 1.12.1997 have been partly held to be illegal, without authority and unsustainable. Contempt Appeals Nos. 7 and 8 of 1998 are thus liable to be allowed.

40. Contempt Appeals Nos. 11 and 13 of 1998 against the order dated 24.10.1997 have been found not legally maintainable, hence they are liable to be dismissed.

41. For the reasons stated above, Contempt Appeals Nos. 7 and 8 of 1998 are allowed. The order dated 6.1.1998 passed by the learned Single Judge is set aside.

42. Contempt Appeals Nos. 9 and 14 of 1998 are partly allowed and the order of the learned Single Judge dated 8.1.1997 is set aside to the extent it contains fresh directions. However, the remaining part of the order shall remain unaltered.

43. Contempt Appeals Nos. 10 and 12 of 1998 are partly allowed to the extent the learned Single Judge revived the contempt proceedings and passed fresh directions to implement the order dated 8.1.1997.

44. Contempt Appeals Nos. 11 and 13 of 1998 are rejected as not maintainable.

45. Before parting with these Contempt Appeals, we noticed the submissions of Shri Ravi Kiran Jain, learned Senior Advocate for the respondents, that the orders dated 11.11.1992 and 25.4.1995 passed by this Court and order dated 14.2.1995 passed by Hon''ble Supreme Court have not been complied with. Contempt Petitions Nos. 31 of 1996 and 1629 of 1996 were dismissed by the learned Single Judge in view of the order of appointment dated 12.12.1996 passed by the appellants giving appointment to the respondents. This order was passed in compliance of the aforesaid orders passed by this Court and Hon''ble Supreme Court. If the order has not been given effect as stated, we hope it shall be given effect to without any further delay from 12.12.1996 and the

respondents shall be entitled for all the benefits under the said order from the same date as a natural consequence. If the order dated 12.12.1996 is not complied with, it shall be open to be respondents to initiate appropriate legal proceedings including fresh contempt proceedings in accordance with law against the appellants.

46. There will be no order as to costs.

Contempt Appeals decided accordingly.