
(1984) 01 RAJ CK 0018

In the Rajasthan High Court

Case No : Civil Contempt Petition No. 197 of 1983

Raghuvir Singh Solanki

APPELLANT

Vs

Bishan Kumar Tandon and Another

RESPONDENT

Date of Decision : 16-01-1984

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (1984) WLN 145

Hon'ble Judges : S.K. Mal Lodha, J;Kanta Bhatnagar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.K. Mal Lodha, J.—This is a contempt petition u/s 12 of the Contempt of Court Act (Act No. 2 of 1971), filed by petitioner Raghuvir Singh Solanki against Shri B.K. Tandon Assistant Secretary to Government Agricultural Group III, Rajasthan, Jaipur and Shri T.R. Mehra Chief Engineer Ground Water Department, Jodhpur for punishing them for contempt of the Court. The petitioner has stated that by order Anx. 3 dated February 16, 1983 the Government has reverted the petitioner on the substantive post of the senior surveyor with immediate effect and Shri Shakati Singh who is junior to the petitioner has not been reverted by that order and thus the non-petitioners have committed contempt of this Court and they should be punished and each of the non-petitioners may be asked to pay Rs. 15000/- as damages to him. It has also been stated that the petitioner has not received salary for 8 months as the amount of the junior post was offered to him.

2. The material facts for deciding this contempt petition are these : The petitioner filed a writ petition praying therein to quash the appointment of Assistant Engineer(Civil) Shri Shakati Singh and Shri D.K. Goyal and to consider him for appointment in preference to them. This writ petition was decided on October 10, 1980 giving a direction to the State Government. Separate appeals were filed by Shri D.K Goyal who v. arrayed as respondent No. 3 and the State of

Rajastan which was impleaded as respondent No. I. The Division Bench passed the following order on December 4, 1981:

We have, therefore no hesitation in affirming the finding of the learned single Judge that Raghuveer Singh was eligible at the material time for appointment to the post of Assistant Engineer(Civil) by promotion on urgent temporary basis in accordance with the Rajasthan Ground Water Service Rules, 1969, The learned Judge rightly issued a direction to the State Government of Rajasthan to consider Raghuveer Singh's case afresh in the light of that finding. His further direction requiring the Government to appoint Raghuveer Singh as Assistant Engineer(Civil) is not sustainable. The Government must be left free to take its own decision on the merits of the case. The appeals are, therefore, partly allowed. While affirming the direction to the State Government requiring it to consider afresh the case of Raghuveer Singh for promotion on urgent temporary basis as Assistant Engineer(Civil) with reference to the material time in the light of the aforementioned finding regarding his eligibility, we would quash the further direction requiring the Government to appoint Raghuveer Singh as Assistant Engineer(Civil). The Government may or may not appoint him depending on his merit, suitability and fitness for the said post. The parties are left to bear their own costs throughout.

D.B. Civil Contempt Petition No 24/82 was moved by the petitioner for taking action for contempt as the Order/Judgment dated December 4, 1981 was not complied with. The Division Bench passed its order dated February 14, 1982 and rejected the contempt petition observing:

Heard the applicant and perused the order of the Division Bench dated December 4, 1981. From Annexure-1 and Annexure-2, it appears that the matter has already been moved and it appears to be under consideration. It is expected that the Government will decide the matter within a reasonable time in compliance with the order of the Division Bench. With these observations, the application is hereby rejected.

Thereafter D.B. Civil Misc. Application No. 38/1982 was filed by the petitioner praying that action may be taken for contempt against Shri Dharamchand Jain, Dy. Secretary Agricultural Department Group III, Jaipur and Shri B.K. Tandon Assistant Secretary Agricultural Department Group HI, Rajasthan Jaipur. That petition was dismissed by the order dated July 15, 1982 holding that it was not a case in which Shri DC. Jain and Shri B.K. Tandon should be punished for the contempt for not complying with the order dated December 4, 1981 of the Division Bench of this Court. Now, the petitioner has filed the present petition on November 14, 1983.

3. In this contempt petition the petitioner has stated that the Government has mala fide passed the order Anx. 3 dated February 16, 1983. reverting him. As the order reverting Shakatisingh should have been passed at that time and that the State Government has complied with the order reverting Shakatisingh after 7

months and 12 days, it was prayed that the non-petitioners may be punished for contempt and each of the n should be asked to pay Rs. 1 000/- as damages to the petitioner. Notices were issued. A reply has been filed on behalf of non-petitioners No. 1 and 2, on January 16, 1984 along with the documents Ex. R.1 to Ex. R.4. It was I stated that the petitioner was at item No. 6 in the final interlace seniority I list dated February 18, 1983. The seniority list was produced marked as Ex. R.2. It is dated February 18, 1983. Shakat singh has been shown in f the seniority list at serial No. 1 and the petitioner has been shown at serial No. 6. The petitioner being junior most in the list Ex. R.2 was reverted I on account of abolition of post under economic cut from the post of Assistant Engineer to Senior Surveyor. Reference was also made in the reply to I the order Ex. R.3 dated February 21, 1983 passed in SB Civil Writ Petition No 515 of 1983 in which it was stated that the State Government has a I right to abolish the post and the petitioner cannot raise any grievance in I this regard. The non-petitioners have referred to the stay order dated. February 21, 1983 in which it was slated that if the persons junior to the r petitioner are retained on the equivalent post, then the petitioner should not be reverted for a period of two weeks. The petitioner filed S.B. 1 Contempt Petition No. 62/83. The Court in its order dated August 25, 1983" I inter alia held that the proposed rules cannot be considered as the rules under the law. The reversion of Shakatisingh was made on the ground that the proposed rules are no rules and that according to the Rajasthan Ground Water Board Service Rules, 1969 the method of recruitment to the post of Assistant Engineer (Civil) is by way of 100% direct recruitment. The Contempt Petition No. 62/83 of the petitioner was dismissed on October 4, 1 1983. In the reply it was also mentioned that in view of the order dated October 20, 1 83 of this Court, it is open to the petitioner to accept the salary offered to him by the non-petitioners for the post of senior surveyor. On the basis of the order of this Court dated December 4, 1981 passed in D.B. Civil Special Appeal No. 344/80 it was stated that the Government may or may not appoint the petitioner and this depends on his merit, suitability and fitness for the said post. The seniority list of next lower cadre i.e. senior surveyor and overseers for promotion to the post of Assistant Engineers (Civil) was revoked vide order No. 3938 dated November 1, 1983. That has been produced as Ex R.4. The case of the non petitioners is that in view of the existing Rajasthan Ground Water Board Service Rules, 1969, the petitioner cannot be adjusted. It was, therefore, prayed that the contempt petition may be dismissed with costs. An application was filed on January 16, 1984 by the petitioner stating that the petitioner possesses the requisite qualification for being appointed as an Asstt. Engineer (Civil) but he is being harassed by the non-petitioners and so they should be punished and also be asked to pay damages to the tune of Rs. 30,000/-. A further reply to that application was filed in which it was stated that the Rajasthan Civil Services Appellate Tribunal Rajasthan Jaipur had issued a stay order on May 2, 1983 staying the reversion of Shri N.K. Nandwani.

4. We have heard the petitioner Shri Raghuvksingh and Mr. H.N. Calla learned

Government Advocate appearing for non-petitioners. The petitioner was promoted on the temporary basis on the post of Assistant Engineer (Civil) vide Government order No. F.9(109) AGR 111/80 dated May 19, 1982. A perusal of the order Anx. 2 dated May 19, 1983 shows that the petitioner who was senior surveyor was appointed on the post of Assistant Engineer (Civil) in the Ground Water Department with effect from May 1, 1980 on urgent temporary basis till June 30, 1982 or till further orders or till regularly selected candidates in accordance with the methods prescribed under the Rajasthan Ground Water Services Rules, 1959 are made available whichever is earlier. In the order Anx. 2 dated May 19, 1983 it is specially mentioned that the urgent temporary appointment shall stand terminated on the expiry of the aforesaid period or on the availability of the newly selected candidates to be appointed unless specifically extended by the competent authority. The order Anx. 2 dated May 19, 1982 was issued in compliance with the judgment of this Court passed in S.B. Civil Writ Petition No. 539/1980 and D.B. Civil Special Appeals No. 344 of 1980 and No. 3 of 1981. The post of the Assistant Engineer (Civil) Ground Water Department was abolished vide Government order No. F.5(4) AGR/SS/III/92 dated July 31, 1982 with effect from August 1, 1982 and as a result of that the petitioner was reverted on a substantive post of senior surveyor with immediate effect vide order Anx. 3 dated February 16, 1983. In these circumstances, it cannot be said that the petitioner has been reverted in disregard of the orders passed by the Division Bench on December 4, 1981. By issuing the order Anx. 2 dated May 19, 1982 the aforesaid order has been complied with. The grievance of the petitioner in the contempt petition that Shakti Singh was not reverted at the time of the passing of the order for his reversion does not require to be examined in detail. A perusal of the reply filed by the non-petitioners shows that Shaktisingh has also been reverted, though he was reverted after the passing of the order of reversion of the petitioner. In these circumstances we are of the opinion that the non-petitioners have not committed any contempt of the court for the order dated December 4, 1981 was complied with and the petitioner who was promoted on urgent temporary basis as Assistant Engineer was reverted on account of the abolition of the post of Assistant Engineer as is clear from Anx. 3 dated February 16, 1983.

5. The contempt petition filed on November 14, 1983 is dismissed. Notices are discharged.