
(2014) 09 MP CK 0018
In the Madhya Pradesh High Court
Case No : MCC No. 388/2007

State of M.P.

APPELLANT

Vs

Meenakshi

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Citation : (2014) 09 MP CK 0018

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : Raghvendra Dixit, Govt. Advocate, Advocate for the Appellant; Ankur Mody, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. Heard.

2. This review petition has been filed for review of the order dt. 25.1.2007 passed in Contempt Petition No. 71/1998.

3. The court disposed of the Contempt Petition with the following direction:-

"5. In such circumstances after hearing the both the parties I find that the copy of the pay bill is in record as Annexure P/8 which is accompanied by the said bill at page No. 22. As the original documents are not traceable due to closure of the institution, now the only way which is left to the Court is to direct the Treasury Officer to treat Annexure P/8 enclosed with the statement as original statement and make payment to the petitioner accordingly and the respondent No. 4 shall also accrued his consent to such payment if legally required. This exercise shall be done within a period of two months from the date of receipt of certified copy of this order. No further orders for taking action against the contemnors is necessary."

4. Contempt petition was filed by the respondent for non compliance of the order dt. 9.1.1996 passed in W.P. No. 54/96 and also order dt. 10.1.1997 passed in

W.P. No. 2261/1996.

5. Writ Court passed the following order in W.P. No. 54/96:

"01) The learned counsel appearing for the petitioners submit that the petitioners are employees of Shishu Bharati Vidhyalaya, Parakh-ji-Ka-Bada, Lashkar, Gwalior. According to the counsel, these teachers are not being paid their salaries in accordance with the revised scale of pay as sanctioned by the Central Government in the year 1986.

02) The respondents No. 3 would look into the grievance made by the petitioners and take such remedial measures as are permissible under the law. Let this be done within a period of one months. The period of one month would begin from the date copy of the order passed by this Court along with writ petition and its annexures are made available. In case, the decision is to be taken by some other authority then the respondent No. 3 would refer the matter to that authority.

03) This petition is disposed of accordingly."

6. From the order of the court it is clear that the direction was issued by the court to the respondent No. 3 to the effect that he would look into the grievance of made by the petitioner and take remedial measure. Thereafter the contempt petition was filed claiming the relief of payment of salary.

7. In reply to the Contempt Petition, it was pleaded that the salary for the entire period could not be paid to the respondent because she remained absent w.e.f. 11.7.1991 to 24.9.1998. It is clear from the order, however, the contempt court issued a direction to the effect that because original documents were not traceable due to closure of the institution, hence, the Treasury Officer shall treat Annexure P/8 as original and make payment to the respondent.

8. In our opinion, the order passed by the contempt court is contrary to well established principle of law.

9. The Hon"ble Supreme Court in the case of Bihar Finance Service H.C. Coop. Soc. Ltd. Vs. Gautam Goswami and Others, has held as under in regard to power of the Court under contempt jurisdiction:-

"While exercising contempt jurisdiction the Supreme Court does not intend to reopen the issues which could have been raised in original proceeding nor shall it embark upon other questions including the plea of equities which could fall for consideration only in original proceedings. The court is not concerned as to whether the original order was right or wrong. The court must not take a different view or traverse beyond the same. It cannot ordinarily give an additional direction or delete a direction issued. It will not do anything which would amount to exercise of its review jurisdiction."

10. The Hon"ble Supreme Court further in the case of V.M. Manohar Prasad Vs. N. Ratnam Raju and another, reported in (2004) 13 SCC 610, has held as under:-

"In contempt proceedings no further directions can be issued by the Court. In case it is found that there is violation of order passed by the court, the court may punish the contempt or otherwise notice of contempt is to be discharged. An order passed in petition, cannot be a supplemental order to the main order granting relief. In this case the Judge disposing of the contempt matter had no jurisdiction to direct the authorities and the State Government to sanction the posts."

11. From the aforesaid judgments of the Hon"ble Supreme Court, it is clear that the Court under contempt jurisdiction, has no power to issue any additional direction.

12. In the original petition, the writ court has only issued direction to the competent authority to look into the grievance of the petitioner. Thereafter, in exercising power under contempt jurisdiction the court issued additional direction. In our opinion, it is not in accordance with law.

13. Hon"ble Supreme Court in Kamlesh Verma Vs. Mayawati and Others, has held as under in regard to maintainability of the review petition after considering the earlier judgments, it is not necessary to consider all the judgments:-

"20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reasons" have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius to mean "a reason sufficient on grounds at least analogous to those specified in the rule." The same principles have been reiterated in Union of India vs. Sandur Manganese & Iron Ores Ltd."

14. Looking to the peculiar facts of the case and the order passed in contempt petition, in our opinion, the review petition is maintainable. Hence, this review petition is allowed. The directions issued by the contempt court vide order dt. 25.1.2007 passed in Contempt Petition No. 71/1998 under review are hereby recalled. Contempt petition is hereby dismissed.

15. No order as to costs.