

(1998) 07 MP CK 0039

In the Madhya Pradesh High Court

Case No : Writ Petition No. 106 of 1998

Takhat Singh Sisodiya

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 15-07-1998

Acts Referred:

Contempt of Courts Act, 1971 — Section 19

Citation : (1999) 1 MPLJ 533

Hon'ble Judges : S. Singh, J;B.A. Khan, J

Bench : Division Bench

Advocate : V.N. Maltare, for the Appellant; V.K. Zelawat, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

B.A. Khan, J.

Petitioner has retired as Assistant Agriculture Director on 30-6-1984. He felt aggrieved of fixation of pension amount and approached SAT in O.A. No. 9/94, which was decided on 4-9-1995 with the following directions :

"They shall examine the whole case of the applicant and if his pay has not been properly fixed as per the Pay Revision Rules. It should be re-fixed according to rules and his pension also shall be calculated accordingly within three months."

Petitioner thereafter invoked contempt jurisdiction of the Tribunal alleging violation of this order in M. A. No. 85/96 by claiming that Respondent again wrongly fixed his pension by not giving him benefit of Finance Department Circular dated 12-3-1982. This was contested by the respondents explaining that they had rightly fixed the petitioners' pension on their part of the right of Choudhary Pay Scale and that he was not entitled to any benefit under the Circular dated 12-3-1982 which was available to only employees who have availed of Choudhary Pay Scale. Tribunal consequently dismissed the contempt petition by order dated 11-11-1997. Petitioner has now filed this Writ Petition

against this order dropping the contempt proceedings and it is to be seen whether the matter could attract the Writ Jurisdiction of this Court.

Petitioners' Counsel Mr. Maltare, invited our attention to the provisions of Section 17 of State Administrative Tribunal Act and Section 19 of the Contempt of Courts Act, 1971. He also relied on *Baradakanta Mishra Vs. Justice Gatikrushna Misra*, Chief Justice of the Orissa High Court, and urged that since the issue whether an appeal would lie against discharge of contempt proceedings was still in grey area and considering that the Supreme Court had permitted exercise of writ jurisdiction against any order/judgment passed by the Tribunal in *Chandra Kumar's* case, as such, this petition was entertainable.

Submission of the learned Counsel appears to proceed on a misconception about the legal position on the issue and misunderstanding about the ratio of *Chandra Kumar's* case. Firstly it is no more *res integra* that no appeal lies against an order dropping contempt proceedings in terms of Section 19 of the Contempt of Courts Act. This stand already settled by the Supreme Court in *State of Maharashtra Vs. Mahboob S. Allibhoy and another*, on the interpretation of the provisions of Section 19 which provides for appeal only in cases of conviction under contempt jurisdiction. Thus the present matter could not be treated to be an appeal u/s 19. Proceeding on the premise that SAT was vested with the same power as that of High Court under the Contempt of Courts Act. Coming to availability of writ jurisdiction, Supreme Court had only saved the writ jurisdiction of the High Court in respect of orders/judgments passed by the SAT which decided the rights and liabilities of the parties and not against orders passed by Tribunal in its contempt jurisdiction which was governable under the provisions of Contempt of Courts Act in terms of relevant provisions of Administrative Tribunal Act. If the Contempt Act was silent in providing a remedy against discharge of a contempt notice, it was not for the writ Court in equitable jurisdiction to take cognizance of the matter. Moreover contempt charge was matter between the Court/Tribunal and the alleged contemner. Where the Forum itself dropped the charge, no third party could persist for continuation of contempt. It is a different matter if the complaining party claims or invokes a fresh cause of action out of such order, which was assailable in an appropriate remedy including a writ petition. Should petitioner want to fall under this bracket, he could resort to any appropriate remedy without insisting on revival of contempt proceedings. For the reasons given, we find no merit in this petition which is dismissed on preliminary hearing.