

(2001) 10 SC CK 0117

In the Supreme Court Of India

Case No : Contempt Petition (C) No. 241 of 1997 in Civil Appeal No. 3464 of 1987

Vijay Kumar, I.A.S.

APPELLANT

Vs

Dinesh Kumar Afzulpurkar and Others

RESPONDENT

Date of Decision : 18-10-2001

Acts Referred:

Citation : (2002) 1 AWC 385 : (2001) 10 JT 391

Hon'ble Judges : M. B. Shah, J; Doraiswamy Raju, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

M.B. Shah and Doraiswamy Raju, JJ.—C.P. (C) No. 241 of 1997: For rendering effective assistance by a senior counsel, we had appointed Mr. Yashank Pravin Adhyaru amicus curiae. However, by letter dated 13.10.2001, Petitioner has stated that amicus curiae may be discharged and he would personally attend the Court on the date when the contempt petition is listed. We discharge the learned amicus curiae.

2. Considering the grievance of the Petitioner, by order dated 11.10.2001 we have directed the State Government to pay full salary for the period from 1.5.1988 to 13.5.1996. In due compliance with the said order after calculating the salary as per the scale payable to the Petitioner, it was stated that without prejudice to the contentions of the State Government, the State Government would pay Rs. 6,82,290 to the Petitioner by demand draft.

3. Petitioner appearing in person today states that he is not prepared to accept the said amount and that his contempt petitions may be decided first. Considering the aforesaid submission, it would be open to the State Government not to hand over the said draft to the Petitioner.

4. In our view, from the facts stated below, it is apparent that there is no question of continuing contempt proceedings against the State Government or

the officers. From the stand taken by the State Government, it is apparent that there is no intention on the part of the State authorities to violate any part of the order passed by this Court. They are also prepared to pay the amount as directed by this Court. Still, however, Petitioner is not accepting the said amount. However, it cannot be said that State Government has violated any order passed by this Court. For the grievance of the Petitioner that he was not given a suitable posting, it has been pointed out by the learned Counsel for the Respondents that despite the posting order given by the State Government, Petitioner is not prepared to join the said post on the ground that he is eligible for higher post. This question cannot be dealt with or decided in contempt proceedings. Secondly, an employee in Government service cannot himself decide that he is entitled to a particular post and, therefore, if such posting is not given, he will not join service. If he is aggrieved by the wrong posting, he can challenge the same. Further, considering the contents of the letter written by the Petitioner and various contempt petitions filed against the learned Judge of this Court also, it appears that these contempt proceedings are frivolous and no case for contempt is made out. Hence, these contempt proceedings are rejected.

5. Registry is directed not to entertain any petition for the same cause.

I.A Nos. 2-5 in C.A. 3464 of 1987, C.P. (C.M.P. 32393 of 1998), C.P. (Crl.) No. in C.A. 3464 of 1987, I.A. No. 2 in W.P. (C) No. 1037 of 1988 (For vacating stay), Contempt Petition (C) No. 300 of 1998 in C.A. 3464 of 1987. C.P. (Crl.) No. (Filed on 7.2.1989) C.P. (Crl.) No. Filed on 8.10.1991 and I.A. No. 8 in C.P. (C) No. 241 of 1997 in C.A. No. 3464 of 1987, Cont. Petition (C) No. 306 of 2001 in C.P. (C) No. 241 of 1997, I.A. Nos. 11 and 12 (for directions) in C.P. No. 241 of 1997.

6. Some of the above interlocutory applications/ contempt petitions filed by the Petitioner are either for listing of contempt petitions/civil appeal before the Court or for the same cause. In view of the above order disposing of contempt petitions, these interlocutory applications and civil miscellaneous petitions do not survive and are dismissed.

7. There shall be no order as to costs throughout.