

(2009) 06 RAJ CK 0010
In the Rajasthan High Court

V.K. Kaushik (Dr.)

APPELLANT

Vs

Smt. Kushal Singh and Others

RESPONDENT

Date of Decision : 30-06-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226, 227
Contempt of Courts Act, 1971 — Section 10, 12, 2

Citation : (2009) 3 WLN 304

Hon'ble Judges : Prem Shanker Asopa, J

Bench : Single Bench

Judgement

Prem Shanker Asopa, J.—By this contempt petition, the petitioner is seeking a direction to initiate contempt proceedings against the respondents for non implementation of the judgment dt. 16.07.2007 passed by the Rajasthan Civil Services Appellate Tribunal (in short ?the Tribunal?) in Appeal No. 952/2006 which has been upheld by this Court in S.B. Civil Writ Petition No. 45/2008 State of Rajasthan v. Dr. V.K. Kaushik and Anr. by dismissing the said writ petition on 16.09.2008.

2. Submission of counsel for the petitioner is that the respondents are not implementing the judgment of the Tribunal dt. 16.07.2007 particularly even after the dismissal of writ petition against the said judgment of Tribunal, therefore contempt proceedings should be initiated against them.

3. The petitioner has directly approached this Court for initiation of the contempt proceedings simply on the ground that the writ petition against the aforesaid judgment of the Tribunal was dismissed on 16.09.2008. The dismissal order of the writ petition is as follows:

In the present writ petition, the petitioner?State has challenged the order dt. 16.07.2007 passed by the Rajasthan Civil Services Appellate Tribunal by which the Tribunal has allowed the appeal preferred by the respondent No. 1 and granted consequential benefits on the post of Director.

The main grievance of the petitioner is that the respondent No. 1 has not filed the application for condonation of delay as the appeal was filed by the petitioner after an inordinate delay and thus the appeal was barred by limitation and the learned Tribunal has condoned the delay at its own. The Tribunal has granted all consequential benefits instead of notional benefits vide its order dt. 16.07.2007.

Vide orders dt. 20.03.2002, 23.03.2002, 06.04.2002 and 08.05.2002 and 10.04.2002 the petitioner has granted only notional benefits to respondent No. 1 and the aforesaid orders are quashed and set aside to the extent that notional benefits were granted to the respondent No. 1 and instead of notional benefits, actual benefit has been granted.

I have given my thoughtful consideration to the rival submissions made by learned Counsel for the petitioner as well as learned Counsel appearing on behalf of respondent No. 1. I have also gone through the judgment passed by the Tribunal. It is not disputed that the Tribunal has only granted actual benefits instead of notional benefits. This Court finds no force in the present writ petition and no interference in the order passed by the Tribunal is required. Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed.

(emphasis supplied)

4. A perusal of the aforesaid order dt. 16.09.2008 would reveal that this Court has simply not interfered with the judgment of the Tribunal dt. 16.07.2007 and no direction for implementation of the same has been issued.

5. I have gone through the record of the contempt petition and further considered submissions of the petitioner in the light of provisions of Contempt of Courts Act, 1971.

6. This Court in Krishna Swaroop Verma v. State of Rajasthan and Ors. SBCWP No. 3304/2009 decided on 29.05.2009 has held that the Tribunal has power to make reference u/s 10 read with Section 12 of the Contempt of Courts Act, 1971. The relevant paras 7 to 12 of the aforesaid judgment dt. 29.05.2009 is as under:

(7) In K.P. Verma v. State of Bihar and Ors. 1989 Lab. IC 2047 under the Bihar Administrative Tribunal Act 1981, jurisdiction of the Court was ousted and the judgment of the Tribunal was given finality under the provisions of Bihar Administrative Tribunal Act, 1981 and the Division Bench of the said Court has held that the meaning of 'Court' within the Evidence Act and the Contempt of Courts Act will cover the 'Tribunal'. Relevant portion of paras 20, 21, 32 and 35 of the aforesaid judgment are as under:

Relevant portion of paras 20, 21, 32 and 35 of K.P. Verma v. State of Bihar

Paras 20 and 21

There is no doubt that a Civil Court has the plenary jurisdiction to try all suits of

civil nature unless its jurisdiction is expressly or by necessary implication barred under any statute as provided for in Section 9 of the Civil P.C. Therefore, the jurisdiction of the Civil Court can be ousted by any statute whether the same is enacted by the State Legislature or by the Parliament. In view of the express provision contained in Section 9 of the Civil P.C. No litigant can be said to have any legal far less any constitutional right to get his grievances adjudicated by a Civil Court. There are various statutes which provide for constitution of statutory Tribunals which tribunals have exclusive jurisdiction to deal with matters which come within the purview of such Acts under which such Tribunals are constituted and in respect of such matters Civil Court's jurisdiction are ousted. Such tribunals are not necessarily real substitutes for Civil Courts. There are various Tribunals which are presided over by an executive officer and not by a judicial officer and the procedure to follow in such tribunals may be summary in nature as compared to elaborate procedures followed in a Civil Court. Before such tribunal, even the provisions of the Evidence Act may not be applicable and still then it cannot be said that such statutes are ultra vires the Constitution. It may further be borne in mind that although a person having a cause of action has a right to have his grievances adjudicated but has no right to get the dispute adjudicated in a particular forum. Moreover in any event the litigant will have a right to challenge the orders of such statutory Tribunal before a High Court under Articles 226 and 227 of the Constitution, as all such Courts and tribunals constituted under any legislative Act are subject to the control and superintendence of the High Court.

(emphasis supplied)

Para 32

However, there cannot be any doubt that these administrative Tribunals or the administrative Courts are authorities outside the ordinary Court system which interpret and apply the laws when acts of public administration are attacked in formal suits or by other established methods. In essence the administrative Tribunals may be called a specialized Court of law, although it does not fulfil the criteria of a law Court as is understood inasmuch as it cannot like an ordinary law Court entertain suits on various matters, including the matter relating to the vires of legislation. However, such a Tribunal like ordinary law Courts, are bound by the rules of evidence and procedure as laid down under the law and are required to decide strictly, as per the law.

(emphasis supplied)

Para 35

It is now well settled that a statutory Tribunal which has been conferred with the power to adjudicate a dispute and pass necessary order has also the power to implement its order. Further, the Act which is a self contained Code even if it has not been specifically spelt out must be deemed to have conferred upon the Tribunal all powers in order to make its order effective.

(emphasis supplied)

(8) The same has been interpreted with reference to the Contempt of Courts Act, 1952 and there is no difference in the language of Section 2(b) of the Contempt of Courts Act, 1971.

(9) In view of the above, the reference could be made for punishment u/s 10 of the Contempt of Courts Act, 1972.

(10) Since the Tribunal is legally authorised to deal with the matter, in judicial or quasi judicial manner and civil court's jurisdiction is ousted and further no appeal has been provided, therefore, the respondents are bound to act in accordance with the judgment of the Tribunal unless it is stayed or set aside by the High Court. Moreover, in the present case the judgment of the Tribunal dt. 13.05.2007 has not been challenged by the State by way of writ petition.

(11) Non implementation of the judgment of the Tribunal tantamounts to mockery and makes the Tribunal teeth-less, although teeth have been provided u/s 2(b) r/w Section 10 of the Contempt of Courts Act, 1971 which are seldom used by the Tribunal. The aforesaid inaction on the part of the Tribunal makes the order passed by it ineffective which is not the object of the Act of 1976.

(12) Accordingly, the writ petition is disposed of with the direction to the Tribunal to ensure compliance of its judgment and order dt. 13.07.2005 in Appeal No. 1578/2001 within a period of one month and in case the respondents fail to comply with the same, then the Tribunal is directed to make reference u/s 10 of the Contempt of Courts Act, 1971 read with Article 227 of the Constitution of India to this Court for taking appropriate action under the Contempt of Courts Act, 1971.

(emphasis supplied)

7. After considering the aforesaid judgment, I am of the view that there is no disobedience of the judgment of this Court dt. 16.09.2008 and the alleged disobedience is of the judgment dt. 16.07.2007 passed by the Tribunal, therefore, the petitioner is free to file an application before the Tribunal for implementation of its aforesaid judgment and in case the same is not implemented within a period of two months from the date of receipt of copy of this order, then the Tribunal is directed to make a reference to this Court.

8. The contempt petition is disposed of.