

IN THE SUPREME COURT OF INDIA

INHERENT/CIVIL APPELLATE JURISDICTION

CONMT.PET.(C) No.2123/2018 in W.P.(C) No.1010/2014

S.K. SRIVASTAVA, IRS

Petitioner(s)

VERSUS

HASMUKH ADHIA, IAS & ANR.

Respondent(s)

(FOR ADMISSION)

WITH

SLP(C) Nos.11064-11065/2019 (XIV)

(FOR ADMISSION and I.R.; and IA No.71878/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No. 17088/2019 - EXEMPTION FROM FILING O.T.; IA No. 63840/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

CONMT. PET.(C) No.673/2019 in W.P.(C) No.1010/2014 (X)

(FOR ADMISSION; IA No. 17088/2019 - EXEMPTION FROM FILING O.T.; and, IA No. 63840/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

O R D E R

Contempt Petition No.2123 of 2018 alleges violation of orders dated 18.09.2015 and 30.06.2016 passed by this Court and prays for action against the alleged contemnors.

The order dated 18.09.2015 was passed in a writ petition filed by certain female employees alleging sexual harassment against the contempt petitioner.

Relevant portion of the order dated 18.09.2015 was as under:

"1. Upon hearing the learned counsel for the parties, we find that the grievance of the petitioners is that the complaints made by them, which have been referred to in the petition, are not looked into by any one.

2. In the circumstances, we direct that the Chairperson of the Central Board of Direct Taxes (CBDT) will nominate an officer, higher in rank than Respondent No.1, who will look into the grievance of the petitioners within six months from today and shall suggest appropriate action, if any, which should be initiated against the concerned person(s).

3. During the course of hearing, the learned Solicitor General has submitted that three chargesheets, which have been annexed to the counter affidavit filed by Respondent No.2 - Department concerned, have been filed against Respondent No.1, but for some reasons no action has been taken in pursuance of the said chargesheets.

4. It is directed that the enquiry in pursuance of the afore-stated chargesheets shall be concluded within six months from today.

5. We are sure that the parties to the litigation shall cooperate in the enquiry proceedings.

6. In view of the above observations, the writ petition is disposed of without expressing any opinion of the merits of the case. All the pending applications stand disposed of."

On 30.06.2016, pursuant to an application seeking extension of time, following direction was issued by this Court:

"In the facts of the case, it is directed that both the inquiries shall be concluded as soon as possible and preferably before 30th December 2016.

We are sure that the delinquent will extend full co-operation in the inquiries."

According to the aforesaid order dated 30.06.2016, both the inquiries ought to have been concluded as soon as possible and preferably before 30.12.2016.

It is a matter of record that the inquiry initiated pursuant to the allegations made by said female employees was concluded within the period prescribed and it culminated in exoneration of the contempt petitioner.

Insofar as the other departmental inquiry proceedings are concerned, the Inquiry Report was submitted by the Inquiry Officer on 30.12.2016 exonerating the contempt petitioner of all the allegations levelled against him.

It however appears that a disagreement note was made by the Disciplinary Authority on 11.05.2017, pursuant to which notice was issued to the contempt petitioner. In his response dated 29.05.2017, the contempt petitioner prayed that facility of oral hearing be afforded to him. He however did not deal with merits of the matter.

It appears that no action was taken on communication dated 29.05.2017, till 02.04.2018 when a show-cause notice came to be issued to the contempt petitioner stating that in the absence of any response from the contempt petitioner, the matter could be concluded *ex parte*.

It is at this stage that the contempt petitioner approached the Central Administrative Tribunal, Principal Bench, New Delhi by filing O.A. No.1500 of 2018 which came to be allowed by the Tribunal accepting the submission that the contempt petitioner ought to have been afforded opportunity of oral hearing.

The view taken by the Tribunal was initially accepted by Delhi High Court but subsequently the order was set-aside in a Review Application filed by the Department.

We thus have following matters before us:

- a) Contempt Petition No.2123 of 2018 alleging violation of orders dated 18.09.2015 and 30.06.2016;
- b) SLP (Civil) No.11064 of 2019 questioning the judgment of Delhi High Court allowing Review Petition; and
- c) Another Contempt Petition being Contempt Petition No.673 of 2019 preferred by the contempt petitioner again highlighting the same issues as raised in the first Contempt Petition.

Having considered the matter in entirety, in our considered view, no contempt is made out in the present matter. We, therefore, dismiss both the contempt petitions.

As the communication dated 29.05.2017 did not deal with the merits of the matter, we give an opportunity to the contempt petitioner to file his response in writing to the notice in terms of disagreement note dated 11.05.2017. The matter shall thereafter be considered as early as possible. In case a prayer for oral hearing is made, it may be dealt with on merits and in accordance with law.

With the aforesaid observations, special leave petition stands disposed of.

We have not and shall not be taken to have expressed any opinion on the merits of the matter, which shall be gone into independently by the concerned authorities.

.....J.
[UDAY UMESH LALIT]

.....J.
[VINEET SARAN]

NEW DELHI;
JULY 1, 2019

ITEM NO.56

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CONMT.PET.(C) No.2123/2018 in W.P.(C) No.1010/2014

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Date : 01-07-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Shekhar Naphade, Sr. Adv.
Mr. Abhkalp Pratap Singh, Adv.
S. Lakshimi MSR, Adv.
Mr. Surinder Kumar Gupta, AOR

For Respondent(s) Mr. Sanjay Jain, ASG
Ms. Aishwarya Bhati, Sr. Adv.
Mr. Zoheb Hossain, Adv.
Ms. Jaskaran Kaur, Adv.
Mr. Arjun Aggarwal, Adv.
Mr. Nithin Chowdary Parluluri, Adv.
Mrs. Anil Katiyar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Contempt Petitions are dismissed and the Special Leave
Petition is disposed of, in terms of the Signed Order.

Pending application(s), if any, shall stand disposed of.

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed Order is placed on the File)