

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1837-1842 OF 2020

(Arising out of SLP (Civil) Nos.14247-14252 OF 2019)

IMRAN P.A. & ORS.

Appellants

VERSUS

SRI N. MANJUNATH PRASAD & ORS.

Respondents

O R D E R

Leave granted.

These appeals arise out of the judgment and order dated 08.01.2019 passed by the High Court of Karnataka at Bengaluru in CCC Nos.1957-1962 of 2018.

Writ petition Nos.58763-58778 of 2015 were filed by the appellants herein with the basic submission that the concerned respondents were wrongly seeking to promote candidates from Junior Engineer (Group 'C') level directly to the level of Assistant Executive Engineer (Group 'A'), bypassing the level of Assistant Engineer (Group 'B') and prejudicing the chances of the appellants, Assistant Engineers (Group 'B') level officers. The prayers in that behalf were as under:

“(d) Issue Writ or Order directing the Respondent No.2 and 3 restraining them from giving promotion to the post of Executive Engineers from the lower cadre of Assistant Executive Engineer who have been directly promoted from the cadre of Junior Engineer, in the interest of justice and equity; and

(e) Pass any order, as this Hon'ble Court deems fit, in the facts and circumstances of the case, including the cost of this writ petition, in the interest of justice and equity."

In these writ petitions interim orders were passed by the High Court on 22.12.2015, 31.03.2016 and 10.11.2016 staying further promotions from the cadre of Junior Engineers and directing the concerned respondents not to proceed further with the decision of the Departmental Promotion Committee till the petitions were disposed of. An affidavit of undertaking was also filed on behalf of the concerned respondents undertaking to the Court on 07.12.2016 as under:

"We will sincerely comply with the order dated 10.11.2016, passed by this Hon'ble Court and do not further proceed with the decision of the DPC till these petitions are decided by this Hon'ble Court."

Thereafter contempt petition was filed by the appellants in the High Court. The grievance raised by the appellants was that:- in clear violation of interim orders dated 22.12.2015, 31.03.2016 and 10.11.2016 as also the undertaking given on 07.12.2016, orders effecting promotions were issued on 12.07.2018 and 30.07.2018, in terms of which certain persons who were till then occupying the posts of Junior Engineers (Group 'C') were directly promoted to the level of Assistant

Executive Engineer (Group 'A').

The contempt petition having been rejected by the High Court, the present appeal has been preferred.

At one stage, an explanation was given by the concerned respondents that the orders of promotion were effected as a result of directions issued by this Court in its judgment dated 09.02.2017 passed in *B.K. Pavitra & Others v. Union of India & Others*, (2017) 4 SCC 620.

On the earlier occasion, Mr. Basava Prabhu Patil, learned Senior Advocate appearing for the respondents had fairly submitted that such understanding was not quite correct and the directions issued in *B.K. Pavitra (Supra)* had nothing to do with the present controversy. In that view of the matter, following order was passed by this Court on 13.12.2019:

"Mr. Basava Prabhu Patil, learned Senior Advocate appearing for respondent Nos.2, 3 and 4 submits that considering the pleadings and status of documents on record, he has advised the Corporation to take appropriate steps and an affidavit shall be presented before this Court before the next date of hearing."

Thereafter, an affidavit has been filed on behalf of the respondents in the High Court submitting as under:

"17. I submit that, above SLP had come up before the Hon'ble Supreme Court on 13.12.2019. The Hon'ble Court while hearing the counsel for petitioners, Shri Basava Prabhu Patil, learned advocate appearing for Respondent Nos.2, 3 & 4 submitted that considering the pleadings and status of documents on record and has advised the Corporation to take appropriate

steps. The Hon'ble Supreme Court, accepted the submission and directed that an affidavit to be presented before, before the next date of hearing and directed to list the case on 09.01.2020.

18. I submit that, in view of these aspects, holding DPC on 02.07.2018, was for a bonafide reasons, and was not with an intention to disobey the orders of the learned Single Judge. Unconditional apology is tendered. The Hon'ble Court may please to accept unconditional apology and pardon the concerned officers and suitable directions, are solicited from the Hon'ble High Court, regarding review of the promotions granted or otherwise, in the interest of justice and equity."

Since it has been accepted by the respondents that the promotions were effected on incorrect understanding of the directions issued by this Court in *B.K. Pavitra (Supra)*, there is no valid justification as to why the interim orders passed by the High Court on 22.12.2015, 31.03.2016 and 10.11.2016 were not followed and why despite the undertaking the promotions were effected.

Mr. Vinay Navare, learned Senior Advocate for some of the intervenors submitted that his clients are entitled to be promoted.

We are not pronouncing either on the merits or demerits of contentions regarding entitlement of any section of the officers. That issue will certainly be gone into at the appropriate stage.

Thus, what emerges from the record is that despite three interim orders and an undertaking given to the High Court, promotions were effected and those interim orders were violated.

While exercising jurisdiction in contempt, we may not punish the contemnors if the act committed by the contemnors would be within the sphere of *bona fide* and mistaken impression but at the same time, any act in transgression or violation of the binding nature of the orders passed by the Court cannot be allowed to stand and the relationship between the parties cannot be allowed to be governed by such invalid act.

We, therefore, allow these appeals, set-aside the view taken by the High Court and hold that the exercise undertaken while issuing the aforesaid promotion orders was not correct. We, therefore, direct as under:

"The respondent-Corporation shall within seven days from today withdraw the concerned promotion orders dated 12.07.2018 and 30.07.2018 and restore the status quo as was obtaining on the date when the undertaking dated 07.12.2016 was furnished on behalf of the Corporation before the High Court."

As a result of the withdrawal of the promotion orders as directed hereinabove, the concerned persons will now be put at the original level that they were occupying before such promotion orders were issued. We however direct that no proceeding for recovery of any monetary benefits or emoluments

as were given to the persons as a result of the promotion orders, shall be initiated against anyone.

Consequently, the contempt proceedings against the contemnors stand disposed of, subject to directions as aforesaid.

Needless to say that it shall be open to any party either to request the High Court for expeditious disposal of the pending proceedings or to ask for variation of the interim orders passed by the High Court as aforesaid; but only after the direction as aforesaid is complied with.

With the aforesaid observations, these appeals are allowed. No costs.

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

.....J.
[INDU MALHOTRA]

.....J.
[HEMANT GUPTA]

NEW DELHI;
FEBRUARY 27, 2020.

ITEM NO.12

COURT NO.6

SECTION IV-A

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

Petition for Special Leave to Appeal (C) Nos.14247-14252/2019

(Arising out of impugned final judgment and order dated 08-01-2019 in CCC No.1957/2018, 08-01-2019 in CCC No.1958/2018, 08-01-2019 in CCC No.1959/2018, 08-01-2019 in CCC No.1960/2018, 08-01-2019 in CCC No.1961/2018, 08-01-2019 in CCC No.1962/2018 passed by the High Court Of Karnataka At Bengaluru)

IMRAN P.A. & ORS.

Petitioner(s)

VERSUS

SRI N. MANJUNATH PRASAD & ORS.

Respondent(s)

(FOR ADMISSION)

Date : 27-02-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. R. Anand Padmanabhan, Adv.
Mr. Deepak D.C. Adv.
Mr. Aravind C., Adv.
Ms. Devarathi, Adv.
Mr. Shashi Bhushan Kumar, AOR

For Respondent(s) Mr. Basava Prabhu Patil, Sr. Adv.
Mr. Anand Sanjay M. Nuli, Adv.
Mr. Dharm Singh, Adv.
Mr. Nanda Kumar K.B., Adv.
M/s. Nuli & Nuli, AOR

Mr. Vinay Navare, Sr. Adv.
Mr. Sharanagouda Patil, Adv.
Ms. Supreeta Sharanagouda, AOR

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

Leave granted.

The appeals are allowed, in terms of the Signed Order.

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

**(MUKESH NASA)
COURT MASTER**

**(PRADEEP KUMAR)
BRANCH OFFICER**

(Signed Order is placed on the File)