

HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

+CONTEMPT CASE No.3037 of 2023

Between:

P. Sankar, S/o Late Panthulua Nagaraja

... Petitioner

And

\$ Shri Harish Kumar Gupta, IPS
Present wrokign as Principal Secretary,
Home Department, Government of A.P.,
A.P. Secretariat, Velagapudi,
Guntur District and another.

.... Respondents

JUDGMENT PRONOUNCED ON **08.08.2023**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked
to Law Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? - Yes -

DR.JUSTICE K. MANMADHA RAO

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.... Respondents

! Counsel for the Petitioner : Sri N. Bharat Babu

Counsel for Respondent: Sri G.V.S. Kishore Kumar
Learned G.P. for Services-I

<Gist :

>Head Note:

? Cases referred:

1. (2012) 1 SCC 273
2. (2006) 5 SCC 1
3. AIR 2008 SC 3016
4. Contempt Petition No. 377 of 2018, dated 11.04.2018 Madras High Court

HON'BLE DR. JUSTICE K. MANMADHA RAO**CONTEMPT CASE No.3037 of 2023****ORDER :**

This contempt case has been filed by the petitioner to punish the respondents under Sections 10 to 12 of Contempt of Courts Act for their willful disobedience to the order dated 11.07.2022 passed by this Court in W.P.No.20923 of 2020.

2. Heard Sri N. Bharat Babu, learned counsel appearing for the petitioner and Sri G.V.S. Kishore Kumar, learned Government Pleader appearing for the respondents/contemnors.

3. This Court vide order, dated 05.07.2022 in W.P.No.28300 of 2021, has disposed of the writ petition. The operative portion of the said order, reads as under:

“Accordingly, the Writ Petition is allowed, while declaring the action of the 2nd respondent in keeping the services of the petitioner under suspension vide proceedings dated 31.12.2020 and subsequent proceedings dated 14.09.2021 as illegal and arbitrary and same is hereby set aside and further directing the 2nd respondent to reinstate the petitioner into service, within a period of four (04) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.”

4. Counter affidavit has been filed by the 1st respondent denying all the allegations made in the petition and stated that, vide G.O.Ms.No.526 Genl. Admn. (Ser.C) Dept., dated 19.08.2008 the Government has directed that the employees who are under suspension for a period of exceeding two years shall be reinstated pending finalization of the disciplinary cases/criminal cases against them. However, on the directions of this Court in WP No.28300 of 2021, the Government have convened a Standing Committee meeting to review the suspension cases of ACB against Police Personnel including the AO Sri Panthula Sankar, DSP, who are under suspension on 28.9.2022 at 4.00 PM for its recommendations. Accordingly, the review committee have recommended to revoke the suspension of the accused officer Sri Panthula Sankar i.e., the petitioner herein. Accordingly, the Government has issued orders to revoke the suspension of Sri P. Sankar, DSP vide Govt. Memo No.1634187/SC.A/A2/2022-3 dated 15.5.2023. Consequently, the DGP, AP, Mangalagiri have issued proceedings vide Rc.No.486/02/2020 dated 16.5.2023 and directed the petitioner to report at the Chief Office for further posting. Hence it is stated that there is no disobedience in implementing the orders of this Court.

5. On perusing the proceeding sheet, on 14.7.2023, Sri G.V.S. Kishore Kumar, learned Government pleader submitted that the respondents have complied with the order of this Court and the 1st respondent has also filed counter affidavit. However, the learned counsel for the petitioner has submitted that though this Court has passed an order dated 5.7.2022 in WP No.28300 of 2021 directing the 2nd respondent to reinstate the petitioner into service, within a period of four weeks from the date of receipt of a copy of the order, he has not complied with the said order. But to that extent, learned counsel for the 2nd respondent has placed a copy of the proceedings Rc No.486/02/2020 dated 16.5.2023 of the Director General of Police, A.P., Mangalagiri and submitted that the respondents have complied with the order of this Court in letter and spirit. Moreover, this Court has not satisfied with the submissions made by the learned counsel for the 2nd respondent that though the impugned suspension order was set aside by this Court and directed the 2nd respondent to reinstate the petitioner into service within a period of four weeks, they are trying to submit that they have complied with the order of this Court. in view of the same, this Court directed the 2nd respondent to appear before this Court on 28.7.2023 and also

directed to explain as to how the order of this Court is complied with in true letter and spirit manner or not.

6. Thereafter, when the matter was listed on 28.7.2023, learned counsel for the 2nd respondent submitted that I.A.No.1 of 2023 has been filed to dispense with the presence of the petitioner/2nd respondent before this Court. In the affidavit filed in support of the application, the 2nd respondent stated that, after receipt of order of this Court dated 05.07.2022 in WP No.28300 of 2021, on 29.8.2022 the same was sent to the 1st respondent, as it is the competent authority to review suspension orders in cases pertaining to ACB investigation and also made a request to honour the orders of this Court. On 26.9.2022, the 1st respondent requested the 2nd respondent to attend review meeting on suspension cases on 28.9.2022. Thereafter the 1st respondent has reviewed the suspension order of the petitioner on 28.9.2022 at 4.00 PM but no order of revocation of suspension of the petitioner was issued by the 1st respondent. This respondent vide letter in Rc.No.486/02/2020, dated 01.05.2023 also forwarded the representation of the petitioner to reinstate him into service. in the meantime, the petitioner filed the present contempt case. While the matter stood thus, the 1st respondent has issued orders

revoking the suspension of the petitioner pending finalization of criminal/disciplinary cases against him vide Memorandum No.1634187/SC.A/A2/2022-3, dated 15.05.2023.

7. Thereafter, this respondent immediately issued order vide proceedings Rc.No.486/02/2020 dated 16.5.2023 revoking the suspension of the petitioner with instructions to him to report at the office of this respondent for further posting and the same was submitted to this Court vide Lr.Rc.No.1222/F4/2023, dated 24.05.2023 and the petitioner reported for duty in the office of the 2nd respondent on 24.5.2023. Later, as per the recommendations of the Police Establishment Board constituted in G.O.Ms.No.42 dated 24.5.2022 of Genl. Admn. (SC.C) Department, the petitioner was posted to CID in the existing vacancy vide Proc.No.831/G2/2023 dated 14.7.2023. He reported for duty in CID on 24.7.2023

It is further stated that though this Court issued orders to this respondent to reinstate the petitioner, this respondent is not competent as per the Guidelines issued by the Government under Rule 8 of APCS (CC&A) Rules, 1991 and Principal Secretary/Secretary of the Department shall review the suspension cases of the Department in respect of the proceedings that arose out of the investigations conducted by

the ACB. In this connection, it is submitted that this Court may kindly consider to issue orders for revocation of suspension without reference to the guidelines issued by the Government in respect of cases involving investigations of ACB to save delay in implementation of the orders of this Court in future.

8. During hearing, learned counsel for the petitioner submits that though this Court passed orders to consider the case of the petitioner in letter and spirit, the respondent authorities herein have not complied with. Therefore, learned counsel requests this Court to pass necessary orders.

9. Further, learned Government pleader appearing for the respondents submits that the respondents have complied with the order of this Court in letter and spirit manner and to that extent he has furnished a copy of proceedings in Memo No.1634187/SC.A/A2/2022-3, dated 16.05.2023, wherein it is stated that *the Director General of Police, A.P., Mangalagiri is invited and informed that a review meeting was conducted in the Chambers of Principal Secretary to Government, Home Department on 28.09.2022 with the i) Inspector General of Police,(Trg. & Per) O/o the Director General Police, Mangalagiri (2) Joint Director, O/o Anti Corruption Bureau, Andhra Pradesh.*

In the said meeting, 4 cases of Police Officers/Personnel have been taken up for review and recommended to reinstate the (4) Accused Officers into service.

10. He further submits that in view of the above Memo, the DGP, A.P., Mangalagiri is requested to issue necessary orders to revoke the suspension of the above accused officers and post them in to non-focal points and far away and report compliance to Government immediately. Later, as per the recommendations of the Police Establishment Board constituted in G.O.Ms.No.42 dated 24.5.2022 of Genl. Admn. (SC.C) Department, the petitioner was posted to CID in the existing vacancy vide Proc.No.831/G2/2023 dated 14.7.2023. He reported for duty in CID on 24.7.2023. Hence, as the orders of this Court have been complied with by the respondents, learned Government Pleader requests this Court that the present contempt case may be closed.

11. In **Maninderjit Singh Bitta vs. Union of India**¹, the Division Bench of the Hon'ble Apex Court held as extracted hereunder:

¹ (2012) 1 SCC 273

“Every person is required to respect and obey the orders of the court with due dignity for the institution. The Government departments are no exception to it.”

12. In **T.N. Godavarman Thirumulpad vs. Ashok Khot**², the Division Bench of the Hon’ble Apex Court observed as extracted hereunder:

“It is also of some relevance to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs.”

13. In **T. Girija Kumari vs. K. Venkateswara Rao**³, the Hon’ble High Court of Andhra Pradesh observed as extracted hereunder:

“9. Contempt jurisdiction is sparingly exercised by the Courts because it is an extraordinary jurisdiction. The jurisdiction is invoked usually not with the object of punishing a contemnor, but for protecting the dignity and authority of the Court.

10. Obedience of the orders of the Courts is foremost and sacred for maintenance of rule of law. Disobedience of the orders strikes at the very roots of rule of law and shakes the foundation on which the judicial system rests. Tolerance to disobedience is not in the

² (2006) 5 SCC 1

³ AIR 2008 SC 3016

interest of the judicial system because it will lose the confidence of those who have succeeded in the Courts.

23. An order passed by a Court is sacrosanct and should be implemented. Implementation of an order cannot be refused under any pretext, so long as it remains in force and is not eclipsed or set aside in the hierarchy of remedies. Even if there is some difficulty in implementing the order, parties should approach the Court for appropriate clarifications. Otherwise, it would amount to disobedience to the Court.”

14. In the case of **“M. Santhi Vs. Mr. Pradeep Yadav and Another”⁴** wherein the Hon’ble Madras High Court held as follows:

“20. The purpose of law of contempt is to protect the machinery of justice and the interests of the public in order to protect these dual interests, unwarranted interference with administration of justice must be prevented. The power to punish for contempt is conferred on Courts for two reasons. Firstly, that the Courts may be armed with the power to enforce their orders, Secondly, they may be able to punish obstruction to the administration of justice. To ensure these objective, there are also constitutional provisions dealing with contempt of Courts, apart from Contempt of Courts Act. Under Article 215 of the Constitution of India a Court of record is a Court, the records of which are admitted to be evidentiary value and not to be questioned when produced before any Court. Such a Court enjoys a power to punish for contempt as its inherent jurisdiction. The impression created by the Court is that even if Article 129 and 215 were not there in Constitution the contempt powers of Courts of record would have been preserved. However the High Courts have to exercise his powers keeping in mind Section 20 of Contempt of Courts Act”.

The Hon’ble Madras High Court has clearly specified the purpose and object in filing the Contempt Case as cited supra.

⁴ Contempt Petition No. 377 of 2018, dated 11.04.2018 Madras High Court

15. I must express my inability to agree. It is incumbent upon the respondents, more particularly, those who are holding senior position in Government, to ensure that the Orders of this Court are complied with promptitude, and within the time stipulated for its compliance. Any difficulty which they may have in complying with the order of this Court would require them to invoke this Court jurisdiction seeking extension of time to comply with the orders.

16. Having regard to the facts and circumstances, this Court observed that, as stated by the 2nd respondent, he has complied with the orders of this Court in letter and spirit manner, but it is observed that the orders are passed on 05.07.2022 and the respondents have complied with the same on 14.07.2023 i.e., nearly after one year. It is true that the respondents are complied with the orders of this Court, but belatedly. Further, the 1st respondent pleaded unconditional apology causing delay.

17. It is observed that the Senior Officers repeatedly in a routine manner tendering unconditional apologies but they are not changing their mindset to comply with the orders with the time stipulated by this Court. Therefore, the respondents are

directed to be cautious in future in complying with the orders of this Court.

18. In view of the above submissions, as the orders of this Court dated 11.07.2022 passed by this Court in W.P.No.20923 of 2020, have been complied with, no orders are required to be passed in this contempt case and the same is liable to be closed.

19. Accordingly, the Contempt Case is closed. No order as to costs. As a sequel, interlocutory applications, if any pending, shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 08 -08-2023

*Note : **L.R copy to be marked.***

(b/o)Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

CONTEMPT CASE No.3037 of 2023

Date : 08 .08.2023

Gvl

