

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAI PUR BENCH, JAI PUR
O R D E R

S. B. Civil Contempt Petition No. 973/2013
 (Ramavtar Jaiman

v.
 Shri Purshotam Agarwal & Ors.)

Date of Order: 30/11/2015

PRESENT
HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Mr. S. K. Singodiya, for the petitioner.
 Mr. Saurabh Saraswat, Dy. GC, for the respondents.

Present contempt petition has been filed under Section 12 of the Contempt of Courts Act, 1971 praying that the respondents be punished for disobedience of the order dated 11.12.2012 passed by a coordinate Bench of this court in S. B. Civil Writ Petition No. 19754/2012.

A perusal of the order dated 11.12.2012 in favour of the petitioner reveal that a direction was given to the State of Rajasthan to declare the petitioner as semi-permanent Store Munshi.

The Learned Single Judge passed similar orders in various petitions and they were challenged by filing appeals. A Division Bench of this court while disposing about 47 appeals on 26.11.2014 rendered the judgment in D. B. Civil Special Appeal (Writ) No. 1085/2014, State of Rajasthan & Ors. v. Jai Krishan Bhatiya, and other connected appeals. The Division Bench of this court has held as under: -

"8. The judgment in Hem Singh and Lal Chand Sharma's case (supra) were rendered on the facts pleaded and replied of those cases, in which the petitioners were either employed initially on the post of Store Munishi in the Workcharge Establishment of the Public Health & Engineering Department, or they were allowed to work, subsequently as Store Munshis and were entitled to be

given semi permanent status after completing two years of service and permanent status after completing ten years service. The facts of initial appointment are not common in all the cases, and it is not feasible to examine the facts of each and every case, individually. It is submitted by learned Additional Advocate General that in most of the cases, it is admitted that the respondents had initially joined and were working as Helpers or Beldars, which are group 'D' posts, and for which, lower pay scale was admissible to them than that the Store Munshi. A large number of certificates were issued by the Assistant Engineers fraudulently verifying that the petitioners were working as Store Munshi's, which should not give them any advantage of grant of semi permanent status or permanent status under the Workcharge Establishment, inasmuch as, they were not entitled to hold the post they were appointed initially in the lower grade. We are also informed that a large number of such persons, admittedly appointed as Helpers and Beldars in lower grade, were given promotion as Pump Operator-II and thereafter as Fitters. They have filed the writ petitions on incorrect facts seeking advantage of Hem Singh and Lal Chand Sharma's case (*supra*). It was found that since the screening committee has been constituted and is considering the facts of each case, with the help of the original document, it will be appropriate to leave the matters, at the first instance, to be examined by the State Government to ascertain the facts of initial appointment, and to find out whether on that basis, they are entitled to be given any benefits as well as the arrears of pay as Store Munshis.

9. In this batch of Special Appeals, learned Single Judge did not call for the reply and where reply was filed, the Court did not record any findings, that the petitioners were initially appointed as Store Munshis and were entitled to be given semi permanent or permanent status and thereafter consequential upgradation of pay and the arrears. It would thus be appropriate, that for the reasons recorded in the matter decided at Jodhpur, to follow the same reasoning and conclusion as in the judgment in *State of Rajasthan & others vs Anil Acharya* (*supra*) rendered on 20.11.2014 at Jodhpur.

10. All these Special Appeals are disposed of with the same directions as were given in *Anil Acharya's case* (*supra*)."

Thus, the Division Bench of this court has held that the Learned Single Judge was wrong in disposing

of the writ petition relying upon the judgment cited without examining the facts of each case.

Learned counsel for the respondents has submitted that the directions issued by the Learned Single Judge were made subject matter of appeal and a Division Bench of this court in D.B. Civil Special Appeal (Writ) No. 1085/2014, State of Rajasthan & Ors. v. Jai Khan Bhatiya, and other connected appeals modified the order passed by the Learned Single Judge. It is further contended that similar contempt petitions were filed before the Principal Seat at Jodhpur and a coordinate Bench (Sangeet Lodha, J.) on 8.9.2015 had disposed of 52 similar contempt petitions (S.B. Civil Contempt Petition No. 670/2013, Shyam Kumar v. Purshottam Agarwal & Ors. and other connected petitions) by observing as under: -

"These contempt petitions have been filed by the petitioners alleging disobedience of the orders passed by the Writ Court disposing of the writ petitions preferred by the petitioners declaring them entitled for conferment of semi-permanent status from the date they completed two years of service from the date of their initial appointment with all consequential benefits. Further, the respondents were directed to pass necessary orders in this regard within the stipulated period.

Learned Additional Advocate General appearing for the respondents-contemnors submitted that the orders disobedience whereof is alleged in the contempt petition were appealed against by the State before the Division Bench of this Court. Learned AAG submitted that all the special appeals preferred by the State stand disposed of by the Division Bench of this Court with the directions that the petitioners herein will be entitled to the benefit of Division Bench judgment in Hem Singh's case only after and subject to the screening to be carried out for weeding out the persons, who were either not eligible or have received promotions in their own trade other than the trade of Store Munshi. Learned AAG submitted that the order as

aforesaid has been made subject to the judgment of the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 18046/2012.

Learned AAG submitted that pursuant to the directions issued by the Division Bench of this Court, barring a few, the candidature of each of the petitioners was considered by the Screening Committee constituted for the purpose, however, none of them has been found eligible for conferment of semi-permanent status, for the reasons recorded in writing. The copies of the orders passed pursuant to the order passed by the Division Bench, as aforesaid, are placed on record.

Learned counsel appearing for the petitioners submitted that the orders after screening have been passed by the respondents behind the back of the petitioners, on the basis of non-existing facts. It is submitted that the petitioners had no opportunity whatsoever to clarify the factual position regarding their entitlement for conferment of semi-permanent status as Store Munshi.

Learned AAG fairly submitted that the State is ready to give an opportunity of hearing to the petitioners to make their submissions regarding their entitlement for conferment of semi-permanent status as Store-Munshi and fresh order will be passed by the competent authority in accordance with law in respect of the candidates who will approach the authority concerned for redressal of their grievances.

Learned AAG submitted that the petitioners whose cases for grant of semi-permanent status have not been examined by the Screening Committee, shall also be extended an opportunity of hearing. Learned AAG submitted that entire exercise regarding reconsideration of the matters for grant of semi-permanent status to the petitioners approaching the authority concerned, shall be completed within a period of six weeks.

In the considered opinion of this Court, the order disobedience whereof is alleged in the contempt petition having been modified by the Division Bench and the respondents having passed the orders after screening and further, keeping in view the categorical stand taken by learned AAG before this Court as aforesaid, the disobedience of the orders as alleged in the contempt petition does not survive. The contempt proceedings are

therefore, dropped. Notices are discharged.

Needless to say, if aggrieved by the order to be passed by the respondents, the petitioners shall be at liberty to avail the appropriate remedy available under the law."

After hearing learned counsel for the parties, in the light of the order dated 8.9.2015 passed by the coordinate Bench at Principal Seat, Jodhpur, the present petition is also disposed of in same terms as in S.B. Civil Contempt Petition No. 670/2013, Shyo Kumar v. Purshottam Agarwal & Ors. decided on 8.9.2015. However, liberty is also granted to the petitioner to challenge the order passed by the screening committee, if the same is adverse to the petitioner and for redressal of any other grievance by availing lawful remedy.

(KANWALJIT SINGH AHLUWALIA), J.

Govind/Ashok-

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Govind Sharma, Sr.PA