

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 17th OF MARCH, 2026

CONTEMPT PETITION CIVIL No. 1018 of 2020

P.K. MAIDAMWAR

Versus

SHRI MALAY SHRIVASTAVA PRINCIPAL SECRETARY

Appearance:

Shri Sahil Sonkusale - Advocate for the petitioner.

Shri Ajay Ojha - Advocate for respondent.

ORDER

This contempt petition has been preferred by the petitioner alleging wilful disobedience of order dated 07.08.2019 passed by this Court in Writ Petition No.179/2019.

2. Relevant paragraph 12 of the order is reproduced as under :-

"Considering the above and taking note of the law laid down by this Court as reproduced hereinabove, the present petition deserves to be and is hereby allowed. The respondents are accordingly directed to consider the case of the promotion of the petitioner to the post of Chief Engineer taking into account the respective ACRs which were not made available in the DPC convened on 23.12.2011 and 19.09.2013 and case of the petitioner was deferred for DPC in circulation. After considering the ACRs of the petitioner for respective years i.e. 2005-06 to 2009-10 in the DPC held on 23.12.2011 and further for the year 2008 to 2011 in the DPC held on 19.09.2013, if the petitioner is found fit, the recommendation be made accordingly and grant him promotion from the date when his junior was promoted and all consequential benefits be also provided to the petitioner as the other persons promoted in the said DPC have been

granted. Let the aforesaid exercise be completed by the respondents within a period of three months from the date of submitting the certified copy of this order."

3. Learned counsel for the petitioner submits that although in the light of order passed by this Court on 07.08.2019, the respondent has promoted the petitioner, but the petitioner has not been given the monetary benefits i.e. back wages, whereas in the light of clear direction issued by this Court vide paragraph 12, the petitioner is also entitled for back wages. In support of his submissions, learned counsel placed reliance on the decisions in the cases of K. Samba Moorthy vs. Sanjiv Chadha & Ors., **2025 INSC 110**; and Dr. Ashok Kumar Sharma vs. Smt. Aruna Sharma, **2012 SCC OnLine MP 10270**; and submits that in the expression "*consequential benefits*" back wages are also covered. He submits that since the petitioner has not been granted the back wages, therefore, the respondent has wilfully disobeyed the order passed by this Court and he deserves to be punished appropriately.

4. In turn, learned counsel for the respondent placing reliance on an order dated 27.02.2026 passed by this Court at Jabalpur in Contempt Petition No.4869/2024 (Atul Bajapei vs. Mr. V.N. Ambade) submits that upon granting promotion without back wages that too in absence of clear direction in that regard, there cannot be any wilful disobedience on the part of the respondent and contempt petition deserves to be dismissed.

5. Heard learned counsel for the parties and perused the record.

6. In the present case there is no dispute about the fact that the petitioner has already been granted promotion from back date as per order dtd.07.08.2019 passed by this Court but without back wages. So, only question involved in this petition is as to whether due to non-payment of back wages, it can be said that the respondent has wilfully disobeyed the order passed by this Court.

7. In the case of Atul Bajapei (*supra*) this Court has taken into consideration most of the earlier decisions of Hon'ble Supreme Court and held that in the expression '*all consequential benefits*' back wages are not included. Relevant paragraphs of the decision are quoted as under :

“6. In view of the aforesaid submissions made by learned counsel for the parties, questions that arise in the instant case are as to whether upon granting promotion from back date, the employee is entitled to back wages automatically, especially when the writ Court has ordered grant of all the consequential benefits of promotional post; and whether back wages are included in the expression 'all consequential benefits'?”

7. Several times an identical question came before the Hon'ble Supreme Court, which was answered as under:

i. A three-judge Bench, in the case of Paluru Ramkrishnaiah and others v. Union of India and another, **AIR 1990 SC 166**, held as under :

“19. Since, however, the judgment of this Court dated 2-2-1981 in Civil Appeal No. 441 of 1981 has not been challenged and has become final, the next question which falls for consideration is as to what further relief, if any, are the appellants in Civil Appeal No.441 of 1981 entitled in pursuance of the civil miscellaneous petitions referred to above filed by them. The reliefs which they have claimed have already been indicated above. It is now not disputed that the appellants of this appeal have in pursuance of the order of this Court dated 2-2-1981 been given a back date promotion to the post of Chargeman II synchronising with the dates of completion of their two years of service as Supervisor 'A'. The grievance of the petitioners, however, is that this promotion tantamounts to implementation of the order of this Court dated 2-2-1981 only on

paper inasmuch as they have not been granted the difference of back wages and promotion to higher posts on the basis of their back date promotion as Chargeman II. As already noticed earlier certain writ petitions filed in Madhya Pradesh High Court were allowed by that court on 4-4-1983 relying on the judgment of this Court dated 2-2-1981 in Civil Appeal No. 441 of 1981. Against the aforesaid judgment of the Madhya Pradesh High Court dated 4-4-1983 Special Leave Petitions (Civil) Nos. 5987-92 of 1986 were filed in this Court by the Union of India and were dismissed on 28-7-1986. The findings of the Madhya Pradesh High Court in its judgment dated 4-4-1983 thus stand approved by this Court. In this view of the matter to put them at par it would be appropriate that the appellants in Civil Appeal No. 441 of 1981 may also be granted the same relief which was granted to the petitioners in the writ petitions before the Madhya Pradesh High Court. As regards back wages the Madhya Pradesh High Court held:-

“It is the settled service rule that there has to be no pay for no work i.e. a person will not be entitled to any pay and allowance during the period for which he did not perform the duties of a higher post although after due consideration he was given a proper place in the gradation list having deemed to be promoted to the higher post with effect from the date his junior was promoted. So the petitioners are not entitled to claim any financial benefit retrospectively. At the most they would be entitled to refixation of their present salary on the basis of the notional seniority granted to them in different grades so that their present salary is not less than those who are immediately below them.”

In so far as Supervisors ‘A’ who claimed promotion as Chargeman II the following direction was accordingly given by the Madhya Pradesh High Court in its judgment dated 4-4-1983 aforesaid:

“All these petitioners are also entitled to be treated as Chargeman Grade II on completion of two years' satisfactory service as Supervisor Grade A. Consequently, notional seniority of these persons have to be refixed in Supervisor Grade A, Chargeman Grade II, Grade I and Assistant Foreman in cases of those who are holding that post.... The petitioners are also entitled to get their present salary refixed after giving them notional seniority so that the same is not lower than those who are immediately below them.”

ii. In the case of State of Haryana and others vs. O.P. Gupta, **AIR 1996 SC 2936 (supra)**, Hon’ble Supreme Court has considered the similar controversy and held as under :

“7. This Court in Paluru Ramkrishnaiah v. Union of India [(1989) 2 SCC 541 : 1989 SCC (L&S) 375 : (1989) 10 ATC 378 : (1989) 2 SCR 92] (SCR at p. 109 : SCC p. 556, para 19) considered the direction issued by the High Court and upheld that there has to be “no pay for no work”, i.e., a person will not be entitled to any pay and allowance during the period for which he did not perform the duties of higher post, although after due consideration, he was given a proper place in the gradation list having been deemed to be promoted to the higher post with effect from the date his junior was promoted. He will be entitled only to step up the scale of pay retrospectively from the deemed date but is not entitled to the payment of arrears of the salary. The same ratio was reiterated in Virender Kumar, G.M., N. Rlys. v. Avinash Chandra Chadha [(1990) 3 SCC 472 : 1991 SCC (L&S) 62 : (1990) 14 ATC 732] (SCC

p. 482, para 16).

8. It is true, as pointed out by Shri Hooda, that in *Union of India v. K.V. Jankiraman* [(1991) 4 SCC 109 : 1993 SCC (L&S) 387 : (1993) 23 ATC 322 : AIR 1991 SC 2010] this Court had held that where the incumbent was willing to work but was denied the opportunity to work for no fault of his, he is entitled to the payment of arrears of salary. That is a case where the respondent was kept under suspension during departmental enquiry and sealed cover procedure was adopted because of the pendency of the criminal case. When the criminal case ended in his favour and departmental proceedings were held to be invalid, this Court held that he was entitled to the arrears of salary. That ratio has no application to the cases where the claims for promotion are to be considered in accordance with the rules and the promotions are to be made pursuant thereto.

9. In these appeals unless the seniority list is prepared and finalised and promotions are made in accordance with the Rules on the basis of the above seniority list, the question of entitlement to work in the promotional posts does not arise. Consequently, the payment of arrears of salary does not arise since, admittedly the respondents had not worked during that period. The High Court was, therefore, wholly illegal in directing payment of arrears of salary. The order of the High Court accordingly is quashed.”

iii. In the case of *Union of India v. B.M. Jha*, (2007) 11 SCC 632, the Hon’ble Supreme Court, while considering the similar question, followed the earlier decisions in the case of *State of Haryana v. O.P. Gupta* (*supra*) and *A.K. Soumini v. State Bank of Travancore*, (2003) 7 SCC 238 (three judge Bench), and held as under :

“5. We have heard learned counsel for the parties. It was argued by learned counsel for the respondent that when a retrospective promotion is given to an incumbent, normally he is entitled to all benefits flowing therefrom. However, this Court in *State of Haryana v. O.P. Gupta* [(1996) 7 SCC 533 : 1996 SCC (L&S) 633 : (1996) 33 ATC 324] and followed in *A.K. Soumini v. State Bank of Travancore* [(2003) 7 SCC 238 : 2003 SCC (L&S) 1041 : JT (2003) 8 SC 35] has taken the view that even in case of a notional promotion from retrospective date, it cannot entitle the employee to arrears of salary as the incumbent has not worked in the promotional post. These decisions relied on the principle of “no work no pay”. The learned Division Bench in the impugned judgment has placed reliance on *State of A.P. v. K.V.L. Narasimha Rao* [(1999) 4 SCC 181 : 1999 SCC (L&S) 841 : JT (1999) 3 SC 205] . In our view, the High Court did not examine that case in detail. In fact, in the said judgment the view taken by the High Court of grant of salary was set aside by this Court. Therefore, we are of the view that in the light of the consistent view taken by this Court in the abovementioned cases, arrears of salary cannot be granted to the respondent in view of the principle of “no work no pay” in case of retrospective promotion. Consequently, we allow this appeal and set aside the impugned order of the High Court dated 17-5-2000 passed by the Division Bench of the High Court as also the order dated 11-1-2000 passed by the Central Administrative Tribunal, Principal Bench.”

8. In the following cases also, the Hon'ble Supreme Court has dealt with the almost similar controversy and held as under :

i. In the case of K. Ananda Rao Etc. vs. Sri S.S. Rawat, IAS And Others Etc., (2019) 13 SCC 24, the Hon'ble Supreme Court has held as under:

“14. Since all these issues were not canvassed before this Court and were not gone into by this Court on 09.08.2017, the question that arises is whether the expression "consequential benefits" occurring in the order dated 09.08.2017 must be given the interpretation that the employees were entitled to all salaries and emoluments for the period that they had not even worked in their respective organisations ? **The order dated 09.08.2017 does not indicate that any such aspect of the matter was in contemplation of this Court or the matter was addressed from this stand point. In the absence of any discussion, it is very difficult to say that this Court had thought of granting something which was in excess of what was contemplated in various policy documents culminating in the GO dated 08.08.2017.** Those policy documents were not overridden or in way found to be inoperative. As a matter of fact, they were not even referred to.

17. Thus, purely on the principle of parity the employees of the institution or entities in Schedule IX and X of 2014 Act could not demand the benefit of enhancement of the age of superannuation from 58 years to 60 years. That benefit came to be conferred under policy documents and finally by the GO dated 08.08.2017. Thus, the source was in those policy documents and naturally the extent of benefits was also spelt out in those instruments issued by the Government. The Circular dated 28.06.2016 which was more or less adopted in proceedings dated 11.06.2018 must be taken to be the governing criteria in respect of such employees. **Unless and until that governing criteria was departed from specifically, mere expression "consequential benefits" would not entitle the concerned employees anything greater than what was contemplated in the policy documents issued by the State Government.**”

ii. In the case of Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others, (2013) 10 SCC 324 the Hon'ble Supreme Court has held as under:-

“32. We may now deal with the judgment in J.K. Synthetics Ltd. v. K.P. Agrawal and another (supra) in detail. The facts of that case were that the respondent was dismissed from service on the basis of inquiry conducted by the competent authority. The Labour Court held that the inquiry was not fair and proper and permitted the parties to adduce evidence on the charges levelled against the respondent. After considering the evidence, the Labour Court gave benefit of doubt to the respondent and substituted the punishment of dismissal from service with that of stoppage of increments for two years. On an application filed by the respondent, the Labour Court held that the respondent was entitled to reinstatement with full back wages for the period of unemployment. The learned Single Judge dismissed the writ petition and the

Division Bench declined to interfere by observing that the employer had willfully violated the order of the Labour Court. On an application made by the respondent under Section 6(6) of the U.P. Industrial Disputes Act, 1947, the Labour Court amended the award. This Court upheld the power of the Labour Court to amend the award but did not approve the award of full back wages. After noticing several precedents to which reference has been made hereinabove, the two Judge Bench observed:

“There is also a misconception that whenever reinstatement is directed, “continuity of service” and “consequential benefits” should follow, as a matter of course. The disastrous effect of granting several promotions as a “consequential benefit” to a person who has not worked for 10 to 15 years and who does not have the benefit of necessary experience for discharging the higher duties and functions of promotional posts, is seldom visualised while granting consequential benefits automatically. Whenever courts or tribunals direct reinstatement, they should apply their judicial mind to the facts and circumstances to decide whether “continuity of service” and/or “consequential benefits” should also be directed.

Coming back to back wages, even if the court finds it necessary to award back wages, the question will be whether back wages should be awarded fully or only partially (and if so the percentage). That depends upon the facts and circumstances of each case. Any income received by the employee during the relevant period on account of alternative employment or business is a relevant factor to be taken note of while awarding back wages, in addition to the several factors mentioned in Rudhan Singh and Uday Narain Pandey. Therefore, it is necessary for the employee to plead that he was not gainfully employed from the date of his termination. While an employee cannot be asked to prove the negative, he has to at least assert on oath that he was neither employed nor engaged in any gainful business or venture and that he did not have any income. Then the burden will shift to the employer. But there is, however, no obligation on the terminated employee to search for or secure alternative employment. Be that as it may.”

9. Although in the decisions relied upon by learned counsel for the petitioner, in the case of Inder Parkash Gupta (**supra**); The Commissioner, Karnataka Housing Board (**supra**); Union of India and others (**supra**); Jyotsna Singh (**supra**); and Havaladar Tejbali (**supra**), the effect of expression ‘all consequential benefits’ has been taken into consideration, but in none of these decisions, question of grant of back wages in lieu of consequential benefits upon granting promotion from back date, that too in contempt jurisdiction, is considered. Further, in all these decisions, previous decisions of Hon’ble Supreme Court in the case of Paluru Ramkrishnaiah and others (**supra**) (3 judge Bench); State of Haryana and others vs. O.P. Gupta (**supra**); A.K. Soumini v. State Bank of Travancore (**supra**) (3 judge Bench); and Union of India v. B.M. Jha (**supra**) have not been taken into consideration, so the decisions

relied upon by learned Counsel for the petitioner, do not provide any assistance to the questions involved in the instant contempt petition.

10. While considering the scope of contempt jurisdiction the Hon'ble Supreme Court has in the case of Jhareswar Prasad Paul & Anr. vs. Tarak Nath Ganguly and Ors., **(2002) 5 SCC 352**, held as under:-

“12.At the cost of repetition be it stated here that the court exercising **contempt jurisdiction** is primarily concerned with the question of contumacious conduct of the party, which alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes levelled against the courts exercising contempt of court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute" in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of courts.”

11. In the present case, the direction contained in the order dtd. 20/08/2024 passed by Writ Court was to grant promotion with all consequential benefits; however, there was no specific or express direction for payment of back wages. The question whether back wages are payable, involves an independent consideration and cannot be presumed to be implicit in every case under the expression ‘all consequential benefits.’ In contempt jurisdiction, this Court is required to confine itself to the plain terms of the order and to examine whether there has been wilful and deliberate non-compliance.

12. A bare perusal of the record shows that in compliance of the order dated 20/08/2024 passed by this Court, the petitioner has been promoted w.e.f.15/09/2004 and his seniority has been fixed notionally and the period w.e.f.01/11/2005 till 28/10/2015 has also been directed to be taken into consideration for notional fixation of his salary. Further, it appears that the petitioner was already promoted w.e.f.29/10/2015 and he was receiving the benefits of the promotional post from the said date. Under such

circumstances, denial of back-wages w.e.f.15/09/2004, does not amount to wilful disobedience of the order dated 20/08/2024 passed by this Court.

13. In view of the aforesaid legal position settled by the Hon'ble Supreme Court in the above-mentioned cases, it cannot be said that the petitioner, in the guise of an order passed by the High Court granting consequential benefits, is entitled to back wages also. And as such, this Court finds that the back wages are not covered in the expression 'all consequential benefits' and consequently, this Court does not find any case of wilful disobedience."

8. Perusal of both the judgments in the case of K. Samba Moorthy (**supra**) & Dr. Ashok Kumar Sharma (**supra**) relied upon by learned counsel for the petitioner, shows that in both the decisions ratio of previous decisions of Hon'ble Supreme Court in the case of Paluru Ramkrishnaiah and Others vs. Union of India and others, **AIR 1990 SC 166**; (3 judge Bench); A.K. Soumini v. State Bank of Travancore, **(2003) 7 SCC 238** (3 judge Bench); and Union of India vs. B.M. Jha **(2007) 11 SCC 632** has not been taken into consideration, therefore, I am bound to follow the decision given by this Court in the case of Atul Bajapei (**supra**) which is based on the decisions in the cases of Paluru Ramkrishnaiah and Others vs. Union of India & Ors., **AIR 1990 SC 166**; State of Haryana and others vs. O.P. Gupta, **AIR 1996 SC 2936**; Union of India vs. B.M. Jha, **(2007) 11 SCC 632**; and K. Ananda Rao and others vs. S.S. Rawat, IAS and others, **(2019) 13 SCC 24**.

9. Resultantly, in absence of clear direction about payment of back wages, this Court does not find any case of wilful disobedience.

10. Hence, instant contempt petition is **dismissed**.

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

(DWARKA DHISH BANSAL)
JUDGE

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