

CORRECTED

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

CONTEMPT PETITION (C)/2022

DIARY NO.13110 OF 2021

IN

CONTEMPT PETITION (C) DIARY NO.21402 OF 2020

IN

SLP (CIVIL) NO. 5846 OF 2020

BIJAY KUMAR SINHA AND OTHERS ...PETITIONER(S)

VERSUS

TRIPURARI SHARAN AND OTHERS ..RESPONDENT(S)

WITH

CONTEMPT PETITION (C) NO.345 OF 2021

IN

CONTEMPT PETITION (C) NO.652 OF 2020

IN

SLP (CIVIL) NO. 5844 OF 2020

WITH

MA NO. 875 OF 2021

IN

CONTEMPT PETITION (C) NO.651 OF 2020

IN

SLP (CIVIL) NO. 5843 OF 2020

ORDER

1. The petitioners have approached this Court contending that the respondents have committed contempt of the order dated 15th February 2021 passed by this Court.

2. The present proceedings have a chequered history. The petitioners were appointed in various Corporations in the erstwhile State of Bihar much prior to 1996. In the year 1996, the fodder scam resulted in a large number of employees working in the Treasury Department either being dismissed or suspended. On account of shortfall of the employees in the Treasury Department, several Corporations including the one, wherein the petitioners were employed, were directed by the Department of Finance, Treasury and Accounts Directorate, Government of Bihar vide its letter No. 447 dated 24th August 1996, to send the services of the employees on deputation. In pursuance to the directions

dated 24th August 1996, issued by the State Government, the petitioners and other employees were relieved and joined the different treasuries in the erstwhile State of Bihar. On 15th November 2000, the State of Bihar was bifurcated into the State of Bihar and the State of Jharkhand. The employees were accordingly apportioned amongst the two States.

3. Various such employees employed with the State of Jharkhand had approached the Jharkhand High Court by filing writ petition being WP(S) No.1693 of 2012, with the grievance that the services of such employees with the Corporations were not considered for the purpose of pensionary and retiral benefits. The employees succeeded before the Jharkhand High Court vide its order dated 31st July 2013. The LPA No. 357 of 2013 filed by the State of Jharkhand before the Division Bench was also dismissed vide order dated 14th January 2015. The State of Jharkhand came up before this Court by filing Civil Appeal No.13372 of 2015. This Court, vide order dated 7th September 2017, refused to interfere with the order of the Jharkhand High Court dated 14th January 2015 and directed that the pension

and retiral benefits as also the arrears shall be calculated giving the benefit of the judgment of the Jharkhand High Court within a period of 6 months.

4. Simultaneously, a similar set of employees who were apportioned to the State of Bihar, were also pursuing the remedy before the High Court of Judicature at Patna. The proceedings reached the Division Bench of the High Court of Patna by way of LPA No. 763 of 2017. The Division Bench of the High Court of Patna passed the following order on 12th December 2017:

“5. From the aforesaid legal principles laid down by the Hon'ble Supreme Court, it is clear that the employees identically situated like the appellants herein, who were working in various Public Sector undertakings, Boards and Corporations in the undivided State of Bihar and whose cases were decided by the High Court of Jharkhand, have been granted benefit and the Hon'ble Supreme Court held that they are entitled to count their service prior to their absorption for the purpose of retiral benefits and grant all pensionary benefits.

6. That being the position, we see no reason to deny the same benefit to these appellants, who are identically situated, like the other, who are allocated to State of Jharkhand after re-organization of the State of Bihar in the year 2000.

7. In view of the aforesaid, we allow all these appeals, quash the order dated 29.03.2017 passed

by the Writ Court in C.W.J.C. No. 7702 of 2010 and other analogous cases and direct the State of Bihar to grant benefit to each of the appellants herein by counting services as rendered by them in the Boards, Corporations and Public Sector Undertakings prior to their absorption and to grant them the pensionary benefit after counting such service in the Boards or Corporations.

8. That apart, we may observe that this order shall be made applicable to all such employees, who are working in the State of Bihar. Regardless to the fact as to whether they have filed writ application or not, as per the Litigation Policy of the State of Bihar, this order shall be implemented, in the case of all identically situated employees, who claim the benefit by the State Government.

9. The benefits accrued to the appellants by virtue of this order be granted within a period of three months from today.”

5. Being aggrieved by the said order of the Division Bench of the High Court of Patna, the State of Bihar approached this Court by filing SLP(C) D. No.15567 of 2018. This Court vide its order dated 4th March 2020, while dismissing the SLP filed by the State of Bihar, observed thus:

“We have also been informed that from the judgment dated 07.09.2017, a review petition was dismissed by this Court on 06.03.2018 in which substantially the same grounds as are taken by the State today were taken by the State of Jharkhand after which the review petition was rejected.

In the circumstances, we are of the view that the Special Leave Petitions need to be dismissed.

Considering that the respondents have not been paid anything, the State of Bihar to implement the impugned LPA judgment and to see that all benefits mentioned therein are paid within a period of six months from today.

Pending applications stand disposed of.”

6. After the said order was passed, the State of Bihar issued a Government Resolution dated 14th September 2020 in purported compliance of the order passed by this Court dated 4th March 2020. Contending that the State of Bihar has not complied with the directions issued by this Court, the present petitioners filed a contempt petition being Contempt Petition (C) Diary No. 21402 of 2020 before this Court. This Court passed the following order in the said contempt petition on 15th February 2021:

“We have heard the learned counsel for the petitioners as well as the learned counsel appearing for the State of Bihar.

The learned counsel for the State of Bihar has taken us through the Finance Department Resolution dated 14.09.2020 in meticulous detail. We may only indicate that our Judgment dated 04.03.2020 has made it clear that "*the State of Bihar is to implement the aforesaid impugned LPA Judgment and to see that all benefits mentioned therein are paid within six weeks*". This has still not been done.

We grant the State of Bihar another three months in order to do the needful, i.e. to pay to all

these employees exactly what was paid by the State of Jharkhand to the employees who were covered by this order. This must be done without any further excuses within the period aforementioned.

In view of above, the contempt petitions are disposed of.

Pending interlocutory application(s), if any, is/are disposed of.”

7. Thereafter, the respondents had also filed an application for extension of the period for compliance of the orders passed by this Court dated 4th March 2020 and 15th February 2021. One month was granted by this Court vide its order dated 29th June 2021 as a last opportunity to comply with the directions passed by it vide its earlier orders.

8. The petitioners have now approached this Court by the present contempt petition contending that the respondents have committed contempt of this Court inasmuch as they have failed to comply with the orders passed by this Court dated 4th March 2020 and 15th February 2021.

9. We have heard Smt. Meenakshi Arora, learned Senior Counsel appearing on behalf of the petitioners and Shri Ranjit Kumar, learned Senior Counsel appearing on behalf of the respondent-State of Bihar.

10. Shri Ranjit Kumar submitted that as a matter of fact, the respondent-State of Bihar has complied with the directions issued by this Court vide order dated 15th February 2021, inasmuch as the Government Resolution dated 14th September 2020 squarely implements the directions issued by this Court. He further submitted that it would reveal that this Court, for the first time, has observed “We grant the State of Bihar another three months to do the needful, i.e. to pay to all these employees exactly what was paid by the State of Jharkhand to the employees who were covered by this order”. He submitted that such an observation is not there in the order passed by this Court dated 4th March 2020 while dismissing the appeals filed by the State of Bihar.

11. We do not find any merit in the submissions made by Shri Ranjit Kumar. In the order dated 4th March 2020, this Court has reproduced, in extenso, the directions issued by the High Court of Patna in its order dated 12th December 2017. The said order of the High Court of Patna is very clear. It was directed to State of Bihar to grant benefits to each of

the appellants therein by counting services as rendered by them in the Boards, Corporations and Public Sector Undertakings prior to their absorption and to grant them the pensionary benefits after counting such service in the Boards or Corporations. In the said order dated 04th March 2020, this Court has also noticed that the review petition filed by the State of Jharkhand being Review Petition (Civil) No. 459 of 2018 in Civil Appeal No. 13372 of 2015 arising from the order dated 7th September 2017 was also dismissed by this Court vide its order dated 6th March 2018. Vide the said order dated 7th September 2017, this Court had directed that all the benefits mentioned therein to be paid within a period of six months from the date of the said order.

12. The perusal of the order dated 15th February 2021 would also reveal that the contention which is raised with regard to compliance in view of the Government Resolution dated 14th September 2020, was considered by this Court and this Court did not find favour with the same. Though, it was not necessary, we had clarified that the directions meant payment to all the employees exactly what was paid by the

State of Jharkhand to the employees who were covered by the said order.

13. From the perusal of the orders passed by the Division Bench of the High Court of Patna as well as the orders passed by this Court, it is clear that the State of Bihar was required to give benefit to each of the appellants by counting services as rendered by them in the Boards, Corporations and Public Sector Undertakings prior to their absorption and to grant them the pensionary benefits after counting such service in the Boards or Corporations. The contention with regard to compliance through Government Resolution dated 14th September 2020 has also been rejected by this Court in its order dated 15th February 2021. It is further to be noted that the State of Bihar itself had filed I.A. No. 62610 of 2021 for extension of period to comply with the directions issued by this Court dated 4th March 2020 and 15th February 2021. One month's time was granted by this Court by order dated 29th June 2021.

14. In that view of the matter, we, *prima facie*, find that the non-compliance of the directions issued by this Court dated

4th March 2020 and 15th February 2021, is wilful and deliberate and amounts to contempt of this Court.

15. We therefore direct the respondent-contemnors to remain present before this Court on 22nd February 2022 and show cause as to why they should not be held guilty for having committed contempt of this Court and be punished in accordance with law.

16. Needless to state that compliance of the directions, in the meantime, will have a bearing on the punishment that may be inflicted upon the respondent-contemnors.

17. All pending I.A.s are disposed of in terms of this order.

.....**J.**
[L. NAGESWARA RAO]

.....**J.**
[B.R. GAVAI]

NEW DELHI;
JANUARY 18, 2022.