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RESERVED ON 15-03-2024

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Court No. - 20

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2467 of 2017

Applicant :- Rajendra Singh And Others

Opposite Party :- Prabhu Narayan Singh V.C. L.D.A. Lko. And Another

Counsel for Applicant :- Sharad Kumar Srivastava,Lalta Prasad Misra

Counsel for Opposite Party :- Shobhit Mohan Shukla, Madan Mohan Pandey, Neel Kamal Mishra, Ratnesh Chandra, Shobhit Mohan Shukla

Hon'ble Shree Prakash Singh,J.

1. Heard Dr. L.P.Mishra, assisted by Sri Sharad Kumar Srivastava, learned counsel for the petitioners, Sri Upendra Nath Mishra, learned Senior Counsel assisted by Sri Neel Kamal Mishra, for opposite party no. 3 and Sri Ratnesh Chandra assisted by Sri Ishan Singh, for the Lucknow Development Authority.

2. Instant contempt petition is preferred for alleged non compliance of the Judgment and Order dated 19-08-1992 passed in Writ Petition No. 222(S/S) of 1992 connected with Writ Petition No. 6384 (S/S) of 1989.

3. Factual matrix of the case is that the petitioners were appointed as Junior Engineers on workcharge basis in the years 1984,1985 and 1987, in the Lucknow Development Authority, and in the year 1992, they approached this court by preferring several petitions namely, Writ Petition No. 222(S/S) of 1992 connected with Writ Petition No. 6384 (S/S) of 1989, and were heard together. The final Judgment and order was passed by this court on 19-08-1992, whereby these writ petitions were allowed, while directing the Lucknow Development Authority to pay minimum of the pay-scale to the petitioners as is being paid to the regularly appointed Junior Engineers, Clerks and Class-IVth employees, were getting at that point of time and as many as 7 directions were issued, but, so far as the last direction in the Judgment and Order dated 19-08-1992, which is allegedly not complied with, by the opposite parties, is to the effect that 'to take step to obtain regularization of the services of those petitioners within nine months, if the posts are within the purview of Public Service Commission. If posts are not within the purview of Public Service Commission, the opposite parties will regularize the services of the petitioners within said period.'

4. Being aggrieved with the above said Judgment and Order dated 19-08-1992, the Lucknow Development Authority filed two Special Appeals namely; Special Appeal No. 35 of 1993 and the Special Appeal No. 39 of

1993. Since, the Judgment and Order dated 19-08-1992 was with respect to the Junior Engineers, Clerks and Class-IVth employees, whereas the Special Appeal No. 35 of 1993, particularly; challenging the Judgment and Order with respect to the Assistant Engineers and that was dismissed on 20-10-2003. The Special Appeal No. 39 of 1993; was also dismissed for non-prosecution on 20-12-2016. Later on, the order dated 20-12-2016 was recalled vide order dated 30-10-2017 though on 30-10-2017, on the request of the learned counsel for the appellant, the same was dismissed as being rendered infructuous but no objection was raised by the learned counsel for the petitioners /respondent, then.

5. Admitted fact in between the parties are that the services of the petitioners were regularized in the year 2003 and further, the special appeal, which was preferred by the Lucknow Development Authority, is dismissed as infructuous as no objection was raised by the learned counsel for the petitioners against the statement given by the learned counsel for the appellants/opposite parties. The fact remains that the Writ Petition (Civil) No. 853 of 1990 titled as 'Shri Ram Kishan and Ors Vs Union of India & Others' was filed by some of the employees of the Development Authority for regularization of their services directly before the Hon'ble Supreme Court, invoking powers under Article 32 of the Constitution of India, wherein, while passing the Judgment and order dated 21-02-1991 by the Hon'ble Apex Court, it was directed to the authority 'to

take steps through the State of Uttar Pradesh to obtain regularization of the petitioners as far as possible preferably within nine months from now so that by the end of the year the process of regularization may, as far as practicable be completed.'

6. Thereafter, the Apex Court clarified its order on 04-09-1991, while observing that 'the question is one of recruitment into U.P. Development Centralised Service. For that purpose, we understand that there are a set of rules and recruitment is through the State Public Service Commission. Our direction on February, 21,1991, is obviously not intended to require regularization contrary to the rules inforce.'

7. The order dated 19-08-1992 passed in Writ Petition No. 6384 (S/S) of 1989 and Writ Petition No. 222(S/S) of 1992 was stayed in Special Appeal No. 47 of 1994 preferred by the Lucknow Development Authority on 23-11-1995. It is also said that since the petitioners were appointed against the posts, which come under the purview of U.P. Public Service Commission and since there were no rules with respect to the regularization of such appointees and thus, several exercise is said to be done by the State Government and ultimately, on 22-07-1997, the petitioners under the special circumstances, a select list was issued wherein, the names of the petitioners also find place.

8. After the aforesaid select list was prepared, the same was assailed by some of the employees of the Development Authorities and an order was passed on 08-09-1997, whereby the exercise with respect to appointment of the petitioners including other similarly situated employees are done, had been declared unsustainable. Thereafter, Special Appeal No. 788 of 1997 alongwith other special appeals were preferred by the petitioners including the other employees, which was finally decided on 16-06-2000, whereby the order passed by the learned Single Judge dated 08-09-1997 was set aside. Paragraph no. H of the plaint of the Special Appeal No. 788 of 1997 preferred by the petitioners, is evident that the petitioners have sought parity of the Judgment and Order passed in Shri Ram Kishan's case(Supra). Thereafter, Civil Appeal No. 353 of 2001 was preferred, wherein, as an interim measure, the following order was passed by the Hon'ble Apex Court on 24-03-2003, which is quoted hereinunder :-

"Learned counsel for the State of U.P. submits that the State of U.P. would try to regularise the adhoc/daily wage appointees who are in service for a number of years and that said regularization would be subject to the final decision in the appeal.

In view of the aforesaid statement, learned counsel for the applicant is not pressing the applications. Hence, the applications stand disposed of accordingly. It is made clear that no further contempt proceedings should be initiated by the parties."

9. Thereafter, this appeal was disposed of with the following observations :-

“Heard learned counsel for the appellants and counsel for the State.

The Judgment of the Division Bench of the High Court of Allahabad dated 26-06-2000, directing regularisation of certain adhoc employees and daily wage appointees who were working as Junior Engineers. The appellants herein have already been regularised by the State pursuant to the Judgment of the High Court. However, they have raised a contention that while making regularisation these appellants were entitled to get seniority over some other candidates who were regularised by the respondent-State. If there is such a dispute regarding inter-se seniority of regularised candidates, they challenge the same before an appropriate forum. We see no justification to consider such a question in these appeals.

The appeals are disposed of without prejudice to such contentions raised by the appellants.”

10. Now, it emerges out that the services of the petitioners have been regularized on 23-07-2003, while amendment in the rule 20-A of Rules 1985.

11. Contention of learned counsel for the petitioners is that on place of regularization of the services of the petitioners within a period of nine months from the date of the Judgment and Order dated 19-08-1992, the same is done w.e.f. 23-07-2003. He submits that the Judgment and Order dated 19-08-1992 passed in Writ Petition No. 7638 (S/S) of 1989 (Vijay Kumar Srivastava and Others Vs State of U.P. and Others), has never been modified, altered or changed in any proceeding before any court of law and the Amendment Application moved in Special Leave to Appeal (C) Nos. 2332-2333 of 2023 has also been dismissed on 19-10-2023 and the Special Appeal No. 39 of 1993 (Lucknow Development Authority and Others Vs. Vijay Kumar Srivastava and Others) filed

against the Judgment and Order dated 19-08-1992, was stayed and the same was dismissed as infructuous, on 30-10-2017, on the statement of the learned counsel for the appellants that the order passed by the Single Judge has been complied with, though the statement given by the appellant was incorrect and misleading and the present contempt petition has been filed after the Special Appeal No. 39 of 1993 was dismissed. He further argued that the exercise, which is said to be done in the year 1997 for appointing/treating the petitioners as adhoc employees, is not in compliance of the Judgment and order dated 19-08-1992, as no reference is made, in the order dated 22-07-1997.

12. Further, submitted that in the Judgment and order passed in Shri Ram Kishan's Case (Supra), it is evident that the directions are flexible as the words are used 'as far as possible preferably within nine months' and so far as the Judgment and Order dated 19-08-1992 is concerned, there is a specific direction that 'to take steps to obtain regularization of the services of these petitioners within nine months'. Therefore, submission is that the period prescribed for regularization of the services of the petitioners is very particular and that has not been interfered at any stage before any higher forum/court and thus, it is not open for the opposite parties to make any interpretation of the direction of this court as per their own facility and thus, it is not the second set of regularization, but the regularization of

the petitioners should have been done, since the year 1992, that too, within a period of nine months, which apparently, has not been done. Further more, the S.L.P. has also been dismissed by the Hon'ble Apex Court regarding any interference in the order of the year 1992 and it is open for the petitioners to press their contempt petition.

13. He further contended that the petitioners were not the parties in the case of Shri Ram Kishan (Supra) and even the order dated 22-07-1997 also does not disclose that the Judgment and order passed by the writ court is also taken care of and the petitioners could not approach this court by way of instituting the contempt petition, prior to the decision in the Special Appeal No. 39 of 1993 as the Judgment and Order dated 19-08-1992 was stayed and as soon as the same was dismissed, the petitioners have preferred the present contempt petition. Infact the petitioners were not in a position to refuse their regularization w.e.f. 23-07-2003 as the interim order was stayed and the petitioners were not in a bargaining position as they had no option to insist that they should be regularized within nine months, from the date of the Judgment dated 19-08-1992.

14. In support of his contentions, he has placed reliance on the Judgment reported in **(2021)10 SCC, 166 (Somesh Thapliyal and another Vs Vice Chancellor H.N.B. Garhwal University and**

another) and has referred paragraphs nos. 43 & 44 of the said judgment, which are quoted hereinunder :-

43. *The bargaining power is vested with the employer itself and the employee is left with no option but, to accept the condition dictated by the authority. If that being the reason, it is open for the employee to challenge the conditions if it is not being in conformity with the statutory requirement under the law and he is not stopped from questioning at a stage where he finds himself aggrieved.*

44. *In the instant case, they lodged the protest petition and brought their grievances to the notice of the respondents but were unable to question except to pray to the Almighty to consider their grievances sympathetically."*

15. Adding his arguments, he submits that there is no concealment of facts by the petitioners in contempt petition and if any word is left to be transcribed but the paragraph discloses the sense of the word left to be mentioned, could not be termed as the concealment of facts and it is mere an inadvertence or typographical error. He also added that the opposite parties have failed to substantiate with any of the counter attack that there is any intentional concealment of facts on the part of the petitioners, may be there are certain documents left to be annexed alongwith the pleadings exchanged in the contempt proceedings.

16. Concluding his arguments, he submits that admittedly, the regularization is done since 23-07-2003 and the Judgment and Order dated 19-08-1992 is very clear in it's term of directions that the opposite parties shall take steps to obtain regularization of the

petitioners, which has apparently not been done even after passing of more than three decades and the Judgment and Order dated 19-08-1992 is still intact. Therefore, submission is that the opposite parties have committed wilful and deliberate contempt of the Judgment and Order passed by the writ court and thus, they may be dealt with strictly, in accordance with the provisions contained in Contempt of Courts Act, 1971.

17. On the other hand, Sri Upendra Nath Mishra, learned Senior Counsel appearing for the opposite party no. 3 has very vehemently opposed the contentions aforesaid and submitted that after the Judgment and Order dated 19-08-1992, there are several developments, as various set of writ petitions, special appeals and S.L.Ps, were filed and the opposite parties after making their best efforts, have made compliance of the order dated 19.08.1992.

18. While craving the leave to put a brief history of appointment of the petitioners for proper adjudication, he submits that the petitioners were initially engaged as work-charge Junior Engineers by the Lucknow Development Authority, though the said posts are a centralised services post, which falls within the purview of the U.P. Public Service Commission and there were neither any rules for regularization of daily wage/work-charge employees working on the centralized posts covered under the U.P. Public Service Commission nor there were sufficient number of sanctioned posts of

Junior Engineers to accommodate all the daily wage and muster roll employees and therefore, efforts were made by the state authorities to ensure compliance of the Judgment and Order dated 19-08-1992 passed in the writ petition of the petitioners, as after, creating supernumerary posts by resorting to the cabinet approval, the services of the petitioners were regularized on 23-07-2003. Further submitted that that it is an admitted fact that the Judgment and order dated 19-08-1992 was passed by Hon'ble Single Judge while referring the Judgment and Order dated 21-02-1991 passed in case of Shri Ram Kishan's and later on, the Lucknow Development Authority, had filed an Special Appeal, wherein the Judgment and Order dated 19-08-1992 was stayed uptill 30-10-2017; as there were six other directions in the Judgment and Order dated 19-08-1992 and undisputedly, those were complied, within period of nine months as was directed by the writ court, but, so far as the grievance of the petitioners with respect to alleged non compliance of the one of the direction i.e. 'to take steps to obtain regularization of the petitioners' is concerned, because of non existence of rules of regularization, the certain exhaustive exercise was done by the State authorities positively and ultimately, the select list could be prepared on 22-07-1997, though thereafter, also the same was challenged and the Hon'ble Single Judge found it unsustainable and thereafter, Special Appeals were preferred by certain other employees including the present petitioners also, which were allowed and

after long running litigations, the exercise could reach to it's logical end, in the year 1997 and thereafter, finally the services of the petitioners could be regularized in the year 2003. These exercises are done resorting to the cabinet decision as there was no rule of regularization, which shows the earnest endeavour of the opposite parties regarding the compliance of the orders passed by this court as well as by the Hon'ble Apex Court, as is evident from the order dated 22-07-1997.

19. Further rebutting the contention of learned counsel for the petitioners regarding the difference in the directions given in the case of Shri Ram Kishan (Supra) and the Judgment and Order dated 19-08-1992, he submits that the Judgment and Order dated 19-08-1992 is 'not to obtain the regularization but, to take steps for obtaining regularization' and thus, it opens to the opposite parties to carry out the necessary formalities and to adhere to the rules of regularization for obtaining regularization as the claim of the petitioners for the regularization was on the posts, which comes under the purview of U.P. Public Service Commission and since the petitioners were not the adhoc employees, as they were appointed on daily wages, which is an admitted fact, and there were no rules prevalent at that point of time, with respect to regularization of the services of the daily wage employees, on the posts, under the purview of U.P. Public Service Commission, therefore, in compliance of

the order passed in the case of Shri Ram Kishan (Supra) as well as the Judgment and Order dated 19-08-1992, a detailed exercise was done and while resorting to the cabinet proceedings, the select list dated 22-07-1997 was prepared and thereafter, the amendment in the rules 1985 was done on 02-08-2001 and the services of the petitioners were regularized with effect from 23-07-2003.

20. Drawing attention towards the order dated 30-10-2017, by which the Special Appeal No. 39 of 1993 was dismissed, he submits that the petitioners were the parties over there, but, they did not make any objection to the statement given by learned counsel for appellant or the Lucknow Development Authority, as it was said that the special appeal has become infructuous. He added that once the select list dated 22-07-1997 was challenged and said list was quashed, the petitioners by way of moving an special appeal, challenged the said order passed by the learned Single Judge and they succeeded in the special appeal. Further, the opening sentence of the select list dated 22-07-1997 is evident that the same is done in compliance of the order passed by the High Court as well as by the Hon'ble Apex Court, though, the description is not given, but it is clear that the said exercise is not aloof but, the same is in compliance of the orders passed by the Courts. He submits that in the Judgment and Order dated 19-08-1992, the Judgment and order passed in the case of Shri Ram Kishan

(Supra) was also considered and thereafter, when all the exercises are done and the petitioners have been accorded the benefit of regularization, even all the proceedings regarding challenge of the select list; was in the knowledge of the petitioners and they took the benefit of the same, now at this stage, they are claiming that there is non compliance of the Judgment and Order dated 19-08-1992, though they never challenged the select list dated 22-07-1997 and are regularized on the very basis of the same.

21. Adding his arguments, he submits that the petitioners did not disclose the complete facts and documents while preferring the contempt petition as they did not disclose the Judgment and Order of the Hon'ble Apex Court, which is relevant for adjudication of the contempt petition and he tried to demonstrate that the same has not been disclosed deliberately and thus, his submission is that there are certain implications of concealment of facts before the court; for which the petitioners should be dealt with strictly, and also added that the contempt petition is not maintainable on the ground of suppression of material facts; as the petitioners are not with the clean hands and there are clear cut misrepresentation and deliberate suppression of the facts and the documents.

22. Further contended that there is no wilful, deliberate or intentional disobedience of the Judgment and the directions dated 19-08-1992, passed by the writ court

and law is very clear on this point as the provisions of Contempt of Courts Act as well as several verdicts of the Hon'ble Apex Court is very clear that while punishing a contemnor for non compliance of the order and direction of the court, the court must satisfy that the disobedience is deliberate and intentional.

23. Concluding his arguments, he submits that because of the foregoing reasons, stated in the preceding paragraphs, the petitioners have failed to put their case under the four corners of the wilful disobedience as is defined under section 12 of the Contempt of Courts Act, 1971 and the petitioners are not with clean hands before this court as there are material suppression of facts in the contempt petition itself. Therefore, submission is that this contempt petition is liable to be dismissed.

24. Having heard learned counsels for the parties and after perusal of material placed on records, it transpires that the Judgment and Order dated 19-08-1992 was passed in Writ Petition No. 222(S/S) of 1992 connected with Writ Petition No. 6384 (S/S) of 1989 filed by the Junior Engineers, initially appointed on work-charge basis in the years 1984,1985 and 1987 alongwith clerks and Class-IVth employees of the development authorities of centralised services department (hereinafter referred to as 'centralised services'). The writ court issued, as many as seven directions and the

opposite parties were directed to make compliance of the order within a period of nine months.

25. Undisputedly, except apart the issue with respect to regularization of the services of the petitioners, all other directions/orders passed by the writ court, in the aforesaid writ petitions have been complied with, within period prescribed by the writ court, but, so far as regularization of services of the petitioners is concerned, it went upto the long litigations in between the parties. From the Judgment and order dated 19-08-1992, it is evident that the Writ Petition(Civil) No. 853 of 1990 titled as 'Shri Ram Kishan and Ors Vs Union of India & Others', was directly preferred before the Hon'ble Apex Court by some of the identically situated employees of the centralised services under Article 32 of the Constitution of India, wherein the Judgment and Order was passed on 21-02-1991; and subsequently, clarifying it's order dated 21-02-1991, an order was passed by the Hon'ble Apex Court on 04-09-1991, which briefly says 'not intended to ensure regularization contrary to the rules inforce.' The writ petition of the petitioners were decided relying upon the case of Shri Ram Kishan(Supra), which is referred in paragraph no. 20 of the Judgment and Order dated 19-08-1992 and similar directions were issued as given in Shri Ram Kishan's Case (Supra) by the Hon'ble Apex Court, though the learned counsel for the petitioners has tried to demonstrate the difference in between the Judgment and Order passed by the Hon'ble Apex Court

in Shri Ram Kishan's Case (Supra) as well as in the Judgment and Order dated 19-08-1992, while pointing out that in the direction of Shri Ram Kishan's Case (Supra), the same is flexible as the words 'possible and preferably' are used, but, in the Judgment and Order dated 19-08-1992, the time prescribed is strict and there is no liberty given to the opposite parties to go beyond the time prescribed, but, while going through both the directions, the start wordings is common i.e. 'to take steps' and therefore, this court finds that so far as the purposive interpretation applies the words 'to take steps' qualifies the rest part of the direction and once this court examines the steps taken by the opposite parties regarding the regularization of services of the petitioners, it emerges that admittedly, there was no rules or regulations to regularize the services of work-charge or daily wage employees on the posts, which come under the purview of U.P. Public Service Commission and therefore, State Government started exhaustive exercise so as to make the appointment of the petitioners on adhoc basis and therefore, after great deliberations with U.P. Public Service Commission by way of putting a cabinet note, an amendment was got done, which is known as '**The Uttar Pradesh Development Authorities Centralised Services (7th Amendment Rules,2001**)' and prior to it, on 22-07-1997, a select list was prepared, wherein the names of the petitioners also find place.

26. Notably when the select list dated 22-07-1991, was prepared, the same was assailed by way of instituting Civil Misc. Writ Petition No. 1907 of 1995, alongwith other connected writ petitions, which were finally decided vide Judgment and Order dated 08-09-1997, whereby the writ court found that the exercise, which has been done, with regard to selection for making adhoc appointments against substantive post, is unsustainable in the eyes of law, whereafter, the same was assailed by way of an Special Appeal bearing no. 792 of 1997 alongwith other connected special appeals, wherein the petitioners including Shri Ram Kishan also filed Special Appeal No. 788 of 1997, which were finally decided on 26-06-2000 and it was directed that the State Government shall reconsider the claim for regularization of the services of the Junior Engineers in accordance with the provisions contained in Rule 20-A of U.P. Development Authorities Centralised Service Rules, 1985(hereinafter referred to as 'Rules 1985') and the liberty was given to make amendment in the Rule 20-A; as aforesaid. The Rule 20-A of the Rules 1985, was amended and thereafter, an S.L.P. bearing no. 356 of 2001 alongwith other S.L.Ps were preferred before the Hon'ble Apex Court and the same was finally decided on 20-04-2006, wherein the following order was passed :-

"Heard learned counsel for the appellants and counsel for the State.

The Judgment of the Division Bench of the High Court of Allahabad dated 26.6.2000, directed regularisation of certain

ad hoc employees and daily wage appointees who were working as Junior Engineers. The appellants herein have already been regularised by the State pursuant to the Judgment of the High Court. However, they have raised a contention that while making regularisation these appellants were entitled to get seniority over some other candidates who were regularised by the respondent-State. If there is such a dispute regarding inter se seniority of regularised candidates, they challenge the same before an appropriate forum. We see no justification to consider such a question in these appeals.

The appeals are disposed of without prejudice to such contentions raised by the appellants."

27. From perusal of the order dated 20-04-2006 passed by the Hon'ble Apex Court, it transpires that the Hon'ble Apex Court while considering the facts that the services of the appellants/petitioners have already been regularized by the State Government and therefore, further dispute of inter-se seniority etc. were open to be challenged before the appropriate forum.

28. In all these exercises, the petitioners were the parties and the facts were fully in the knowledge of the petitioners that though the State Government was intended to regularize the services of the petitioners, but, since the several writ petitions, special appeals and S.L.Ps were preferred and therefore, the delay occurred, which is not done intentionally.

29. It is apparent from the directions given in the Judgment and Order dated 19-08-1992 that the opposite parties will proceed to take steps for regularization and the records, which were preferred through the pleadings before this court, are evident

that the State Government was in a continuous process of undertaking steps for regularization of the services of the petitioners including the other identically situated employees of the 'centralised services department' and therefore, the directions cannot be gone into aloof. So far as the allegation of deliberate defiance is raised by the petitioners, the fact remains that the petitioners were not adhoc employees and further from perusal of the Judgment and Order dated 19-08-1992, it is also apparent that the writ court was cautious enough regarding variations of the posts falling under the purview of the U.P. Public Service Commission and outside of the purview of U.P. Public Service Commission and therefore, as on immediate direction, it is observed that 'if the posts are not within the purview of U.P. Public Service Commission, the opposite party will regularize the services of the petitioners, within the said period.' This clearly shows that the exercise and steps, which are necessarily to be carried out, were in the knowledge of the writ court and the writ court could not have speculated that number of litigations would be instituted in future and which will cause delay in exercise of regularization proceedings.

30. The Judgment and Order dated 19-08-1992 was assailed in Special Appeal No. 39 of 1993, wherein an interim order was passed and the Judgment and Order dated 19-08-1992 was stayed and the Special Appeal No. 39 of 1993 was finally decided on 30-10-2017, on the statement of the appellants that the special appeal

has been rendered infructuous, though no objection was ever raised by the counsel for the petitioners at that point of time.

31. If the petitioners are taking a stand that the exercise of preparing the select list was carried out vide order dated 22-07-1997, wherein the names of the petitioners also find place, but, the same was never challenged by them, which shows that principally the petitioners, were satisfied that some exercises are being done for regularization of their services, but, as soon as the order dated 22-07-1997 was found as unsustainable by Hon'ble Single Judge in the writ petitions, the petitioners immediately ran to challenge the same by way of instituting special appeals and ultimately, they succeeded and thereafter, the exercise was done and admittedly, their services were regularized in the year 2003.

32. Further there was no provision under 20-A of the Rules, 1985 regarding regularisation of daily wage or muster roll employee against the post comes under purview of U.P. Public Service Commission and therefore, the Rules were amended vide 7th Amendment, 2001 and thereafter, the regularization exercise became possible, particularly, with respect to the petitioners, which indicates the earnest efforts of the State, regarding compliance of the order of the writ court.

33. This court is also aware that the interim order passed in Special Appeal No. 39 of 1993, wherein the Judgment and Order dated 19-08-1992 was stayed for quite long time and that could only be dismissed in the year 2017, when the statement was given by the appellants that the same has become infructuous.

34. When this court examines the matter on its facts and law that whether there is any deliberate or wilful disobedience on the part of the opposite parties?; it borne out that there was no rule or regulation with respect to regularization of the services of the petitioners as they were not appointed on adhoc basis but, they were working as work-charge or daily wages and therefore, regularization of their services could have been done after the amendment in the rules and the petitioners have failed to substantiate that no exercise or any steps are taken or carried out, for regularization of their services. Number of letters were written by the State Government to the U.P. Public Service Commission, by the time of preparation of the select list and the effort of the State Government is apparent regarding substantive exercise for regularizing the services of the petitioners.

35. The petitioners have also failed to substantiate that the opposite parties have intentionally not considered the claim for regularization of their services and they have also failed to demonstrate that the exercises, which were being carried out by the State

Government including the preparation of select list dated 22-07-1997 as well as the litigations challenging the action of the State Government while proceeding with the regularization of the services of the petitioners, were not in their knowledge.

36. While the direction in the order dated 19.08.1992, the words 'taking steps' is said meaningfully, as the same clearly encapsulates the intention and cautiousness of the writ court regarding the time taking process of regularization. At the same time, the writ court was also cautious enough regarding the nature of the posts, which are under the purview of U.P. Public Service Commission and therefore, the time which was consumed either in several set of litigations or in the exercises done to ease out the process of regularization, enough to show that the element of deliberate or intentional disobedience is missing in the present matter.

37. It is trite law that the willful and deliberate defiance of the order is pivotal aspect in so far as adjudicating the contempt proceedings against a contemnor. It is the factual matrix, which can be interpreted and looked into, to come to a final conclusion that is there any intention of the alleged contemnor to commit defiance of any order or direction passed by the court. If in a case, the contemnor succeeds to demonstrate that if a particular time or period prescribed for compliance of the Judgment and

Order is disobeyed for some reasonable causes or those were not within the approach of such contemnor or such disobedience is the out-come of some compelling circumstances which created impossibility for the contemnor to comply with the order, the same cannot be termed as wilful or deliberate contempt, though this could be considered on the facts of each and every case. Hon'ble Apex Court has also considered the issue with respect to wilful and deliberate contempt in the case of Rama Narag Vs. Ramesh Narang and Others, Contempt Petition (Civil) No. 92 of 2008, Kunwar Singh Saini Vs High Court of Delhi, 2012(4) SCC 307 and 1994(6)SCC 332 and the case of the contemnors/opposite parties is squarely covered with the ratio of the Judgment abovesaid.

38. In view of abovesaid submissions and discussions, no contempt is made out against the contemnors/opposite parties. Consequently, the contempt notices are hereby discharged.

39. The contempt petition is **dismissed** accordingly.

40. Consigned to records.

Order Date :- 04-04-2024

AKS