

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

Present: Hon'ble Mr. Ram Singh
----- Vice Chairman (J)
Hon'ble Mr. A. S. Nayal
-----Member (A)

CONTEMPT PETITION NO. 16/NB/DB/2019

Lakhiram Jaguri, S/o Late Shri Durga Dutt Jaguri R/o Presently residing at Kalakoti House near Kefti fitness Studio, Tayal Chatursingh, Delavchaur, Haldwani.

.....Petitioner

VERSUS

Mr. R.C.Purohit, Engineer In Chief, Head of the Department, Public Works Department, Yamuna Colony, Dehradun.

.....Respondent

And

CONTEMPT PETITION NO. 17/NB/DB/2019

Lakhiram Jaguri, S/o Late Shri Durga Dutt Jaguri R/o Presently residing at Kalakoti House near Kefti fitness Studio, Tayal Chatursingh, Delavchaur, Haldwani.

.....Petitioner

VERSUS

Mr. Om Prakash, Additional Chief Secretary, Public Works Department Government of Uttarakhand, Civil Secretariat, Dehradun.

.....Respondent

Present: Sri Kartikey Hari Gupta, Ld. Counsel
for the petitioner.
Sri Kishore Kumar, Ld. A.P.O.
for the Respondent.

ORDER

DATED: SEPTEMBER 18, 2019

HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)

1. Both the above contempt petitions have been filed, in relation to the order dated 09.01.2019, passed in claim petition No. 03/NB/DB/2019, Lakhiram Jaguri vs. State of Uttarakhand & others.

2. Claim petition No. 03/NB/DB/2019 was filed by the petitioner before the court on 09.01.2019, with the prayer to quash the order dated 04.06.2018, passed by the respondent No. 1 and the ex-parte inquiry dated 29.03.2018, along with the prayer to quash the order dated 16.07.2018 and to issue a direction to the respondents to accept the departmental inquiry report dated 09.05.2018 and to pass other orders, necessary for the justice.

3. On the first date of hearing, the petition was opposed by the learned A.P.O. on behalf of the respondents that it is premature.

4. A legal point was raised by the petitioner that without following the procedure in law, the respondents proceeded against the petitioner. It was pointed out that in a departmental inquiry report dated 09.05.2018, submitted by the Chief Engineer Level-I, P.W.D., Sri R.C. Purohit, the petitioner was exonerated from all the four charges levelled against him in the charge sheet dated 02.09.2016. The disciplinary authority acted upon such report and without disagreeing with the findings of the inquiry officer, has issued a show cause notice dated 04.06.2018, which is not as per the rules.

5. On this point, after hearing both the parties, the petition was disposed of at the admission stage, with the following order:

The petition is disposed of at the admission stage with the direction to the respondents, to withdraw the show cause notice dated 04.06.2018 (Annexure: 1) and they are free to proceed with the matter, if they so desire, only as per the requirement of the law and the principles of natural justice.

The petition is disposed of accordingly.

6. Now the petitioner has filed the above contempt petitions separately, against Sri Om Prakash, Additional Chief Secretary, Public Works Department, Government of Uttarakhand, Dehradun representing the State and Sri R.C. Purohit, Engineer in Chief (Head of the Department), Public Works Department, Uttarakhand, Dehradun,

with the allegation that the contemnors respondents have willfully disobeyed the directions of the Tribunal, issued on 09.01.2019 by passing order dated 10.01.2019, and clearly violated the order of this Tribunal. In the contempt petitions, it has been contended that the petitioner obtained the copy of the order dated 10.01.2019, under RTI Act, but in none of the petitions, have filed copy of the said order dated 10.01.2019. Prayer has been made to initiate the contempt proceeding against the respondents, to summon them in person and to punish them for deliberate and intentional non-compliance of the order dated 09.01.2019, passed by this Tribunal.

7. On behalf of the respondents, learned A.P.O. opposed these contempt petitions on the ground that the respondents have not disobeyed any order of the Court and contempt petition cannot be filed against them. It has also been contended that they have filed a petition for review of the order, passed in the original claim petition.

8. We have heard both the sides and after summoning the original file, perused the same.

9. The court has noticed that, in the original claim petition, vide order dated 09.01.2019, the petition was disposed of at the admission stage, with the direction to the respondents to withdraw the show cause notice dated 04.06.2018, but simultaneously it was also ordered that the respondents are free to proceed with the matter, if they so desire, as per the requirement of the law and the principles of natural justice.

10. It was pointed out that in the departmental inquiry report dated 09.05.2018, conducted by the Chief Engineer, P.W.D., the petitioner was exonerated from all the charges but without disagreeing from the findings of the inquiry officer, the said show cause notice dated 04.06.2018 was issued by the Disciplinary Authority, on the basis of

the such irregularity, the petition was disposed of at the admission stage.

11. We have noticed that by the order dated 09.01.2019, the respondents' right to proceed against the petitioner, as per the law, was not closed and they were free to proceed with the matter as per law, i.e. after disagreeing with the report of the inquiry officer and recording the reasons, they were free to proceed against the petitioner.

12. During argument, it was submitted by the respondents that the petitioner is trying to mislead the court. According to them, after the notice dated 04.06.2018, the matter was again examined by the respondents and on the basis of another inquiry report dated 29.03.2018 and another notice dated 16.07.2018, the matter was proceeded and after recording the reasons for disagreeing with the inquiry report of Chief Engineer, Level-I hence, according to them, respondents proceeded as per law and in compliance of the order of the Court, within their right. It has also been contended that for the irregularities committed by the petitioner, another inquiry was also conducted by technical consultant, the report of which was submitted on 29.03.2018, and in that report, the irregularities were pointed out. After taking the cognizance of both the inquiries, and disagreeing with the report of Chief Engineer, Level-I dated 09.05.2018, the fresh notice dated 16.07.2018 was issued, in compliance of which, the action was proceeded.

13. The court finds that there was no order of the court, to restrain the respondents to proceed on the basis of the notice dated 16.07.2018. Furthermore, in the contempt petition, petitioner has alleged that without withdrawing the notice dated 04.06.2018, and by passing order dated 10.01.2019, the contempt has been committed.

14. The court finds that after notice dated 04.06.2018, a fresh notice dated 16.07.2018 was also issued. The respondents who were granted liberty to proceed with the matter, as per law, were free to proceed as per law and they have acted upon accordingly. Furthermore, the respondents have not filed copy of any such order dated 10.01.2019, on the basis of which, contempt has been alleged. We find that the proceeding on the basis of notice dated 16.07.2018 was not stayed, and in such notice reasons for disagreeing with the report of the Chief Engineer, Level-I, dated 09.05.2018 was also mentioned. Hence, court finds that no contempt has been committed by the respondents and both the contempt petitions deserve to be dismissed.

15. Both the contempt petitions are dismissed and disposed of accordingly.

Sd/-

(A.S.NAYAL)
MEMBER (A)

Sd/-

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: SEPTEMBER 18, 2019
NAINITAL

KNP