

Ajay Kumar Bhalla & Ors.

v.

Prakash Kumar Dixit

(Civil Appeal No. 8129-8130 of 2024)

29 July 2024

**[Dr Dhananjaya Y Chandrachud,* CJI,
J B Pardiwala and Manoj Misra, JJ.]**

Issue for Consideration

Respondent approached the High Court of Delhi for challenging an order of the DIG (CR&VIG), whereby he was removed from service. The High Court set aside the impugned order; imposed a minor penalty on him; reinstated him without back wages; directed his reinstatement to be dated back to 1995 (when the original order of dismissal was made) for the purposes of pay fixation, seniority and all other consequential benefits including promotions; and also directed the Order to be implemented within 8 weeks. When he was not reinstated within time prescribed and was denied promotion to the eligible rank of IG by the time he superannuated, the Respondent initiated contempt proceedings before a Single Judge in the High Court. The Court was of the opinion that there was willful disobedience on the part of the Appellants in complying with the earlier directions issued by the Division Bench. The Appellants went in Appeal before a Division Bench of the High Court. It was rejected as not maintainable under Section 19 Contempt of Courts Act.

The issue before the Hon'ble Supreme Court was to decide as to when a Letter Patent Appeal lies against an Order of a Single Judge of High Court if such an appeal is not maintainable under Section 19 of The Contempt of Courts Act, 1971.

Headnotes[†]

Contempt of Courts Act, 1971 – Section 19 – Midnapore Peoples' Coop. Bank Ltd. and Others v. Chunilal Nanda and Others [2006] Supp. 2 SCR 986 – The position w.r.t. appeals against orders in contempt proceedings – Reiterated:

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Held: Para 11 of the judgment in Midnapore Peoples' Coop. Bank Ltd. case sums up the principles in regard to appeals against orders in contempt proceedings, as under:-

- I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.
- II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.
- III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.
- IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.
- V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases). [Para 13]

Letter Patent Appeal – Whether it lies in the facts of the case – Principles laid down in Midnapore Peoples' Coop. Bank

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Ltd. and Others v. Chunilal Nanda and Others [2006] Supp. 2 SCR 986 applied:

Held: Single Judge in his order held that – (1) the appellants were guilty of contempt of the order; (2) the respondent was entitled to promotion to the rank of IG; and (3) gave an opportunity to the Appellants “to issue a fresh order granting promotion to the petitioner to the rank of IG” to bring him at par with his immediate junior – There is a crystallized finding about the entitlement of Respondents and guilt of Appellants – The finding on Appellants’ guilt cannot be challenged under Section 19 Contempt Act at this stage since there is no order imposing punishment – The finding with regard to the entitlement of promotion is amenable to challenge as per principle laid down in Para 11 (V) of the Midnapore Peoples’ Coop. Bank Ltd. and Others judgment – Letter Patent Appeal restored. [Paras 15, 17, 18]

Case Law Cited

Midnapore Peoples’ Coop. Bank Ltd. and Others v. Chunilal Nanda and Others [2006] Supp. 2 SCR 986 : (2006) 5 SCC 399 – relied on

List of Acts

The Contempt of Courts Act, 1971.

List of Keywords

Contempt; Letter Patent Appeal; Reinstatement; Section 19 of Contempt Act.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 8129-8130 of 2024

From the Judgment and Order dated 10.05.2024 and 02-06-2023 of the High Court of Delhi at New Delhi in LPA No. 157 of 2024 and CONT.CAS(C) No. 198 of 2020 respectively

Appearances for Parties

Tushar Mehta, Solicitor General, Vikramjeet Banerjee, A.S.G., Siddharth Sinha, Ms. Sansriti Pathak, Astha Singh, Ishaan Sharma, Arvind Kumar Sharma, Advs. for the Appellants.

Sanjoy Ghose, Sr. Adv., Anand Shankar Jha, Rohan Mandal, Abhilekh Tiwari, Advs. for the Respondent.

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1. Delay condoned.
2. Leave granted.
3. A disciplinary proceeding was convened against the petitioner for alleged acts of misconduct when he was posted as Officer Commanding B/30 Bn., CRPF. He was removed from service in July 1995.
4. After the appeal against the order of punishment was rejected, the respondent instituted proceedings under Article 226 of the Constitution. For the purpose of present discussion, it is not necessary to deal with all the intervening stages in the proceedings.
5. By an order dated 24 December 2019, the Division Bench of the High Court of Delhi directed that :

"34 For all of the aforementioned reasons, the order dated 16th October, 2018, passed by the DIG (CR&VIG) in the Directorate General, CRPF, imposing the penalty of removal from service on the Petitioner, is hereby set aside. The minor penalty as decided by the DA viz., "reduction to a lower stage in the scale of pay by one stage for a period not exceeding 3 years, without cumulative effect and adversely affecting pension" will be the penalty in the Petitioner's case.

35 Consequently, the Petitioner is directed to be forthwith reinstated in service, with all consequential benefits, but without any back wages. The date of reinstatement will relate back to the date of his having been originally removed from service i.e. 10th July 1995, for the purposes of pay fixation, seniority and all other consequential benefits including promotions. The consequential orders by way of implementation of this judgment be issued not later than 8 weeks from today."

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6. The respondent instituted contempt proceedings before the High Court of Delhi. He was reinstated in service by an order dated 8 March 2021. The respondent was promoted to the rank of Deputy Commandant on a notional post with effect from 17 October 2021 by an order dated 22 March 2023. He superannuated from service on 31 March 2023.
7. In the course of the hearing of the contempt proceedings, the Single Judge in an order dated 2 June 2023, noted the submission of the respondent that even if the date of implementation of the minor penalty was from 16 October 2018, he would be entitled to all promotions till the rank of IG from 2021 till the date of his retirement on 31 March 2021. This emerges from paragraph 38 of the judgment of the Single Judge, which is in the following terms:

"38 The Petitioner in his written submissions dated 02.03.2023 had stated that even if the date of implementation of minor penalty is considered to take effect from 16.10.2018, he would be entitled to all promotions till the rank of IG from the year 2021, till his date of retirement, i.e. on 31.03.2023. The learned counsel for the Petitioner had relied upon the said submission during the course of hearing dated 03.03.2023 and submitted that the Petitioner would be satisfied if he is granted the rank of IG as on the date of his retirement.:

8. After recording the above submission, the Single Judge proceeded to hold that there was a willful disobedience of the directions which were issued by the Division Bench with respect to pay fixation, seniority and all other consequential benefits including promotion. The finding in that regard is contained in paragraph 39 of the judgment of the Single Judge, which reads as follows :

"39 This Court is, therefore, of the opinion that there is willful disobedience by the Respondent(s) of the directions issued by the Division Bench with respect to the implementation of the directions issued at paragraph 35 of the judgment dated 24.12.2019 with respect to pay fixation, seniority and all other consequential benefits including promotion."

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9. Thereafter, the Single Judge held the Inspector General of Police (Personnel) and DIG (Personnel) who held office as on 22 March 2023 guilty of contempt of court for willful disobedience of the directions contained in the judgment of the Division Bench dated 24 December 2019. The Single Judge granted an opportunity to the appellants herein in the following terms :

"41 This Court, however, grants an opportunity of six (6) weeks to the aforesaid Contemnors to issue a fresh order granting promotion to the Petitioner to the rank of IG to bring him at par with his immediate junior as per the merit cum seniority list at the time of the appointment."

10. It was observed that in case the contemnors did not issue appropriate orders granting promotion to the respondent to the rank of IG within the time granted, the case would be heard for sentencing on the next date of hearing.

11. A Letters Patent Appeal was filed before the Division Bench against the order of the Single Judge dated 2 June 2023. The Division Bench, however, rejected the Letters Patent Appeal as not being maintainable on the ground that an appeal under Section 19 of the Contempt of Courts Act would not be maintainable since no punishment had been imposed by the Single Judge and the observations made by the Single Judge were not to be construed as crystallizing any right in favour of the respondent. On this understanding, the Division Bench has observed as follows :

"52 He submitted that if the observations made by the Court in the impugned judgment are not construed as crystallising any rights in favour of the respondent and are only read as confined to the question whether the appellants have committed any willful disobedience of the order of the Court, the appellants would be satisfied.

53 In view of our understanding of the impugned judgment as noted above, the learned Single Judge has not decided any dispute regarding the rights and obligations of the parties other than whether the appellants had committed contempt of court. All

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observations made by the learned Single Judge must be read only for the purposes of determining whether the appellants had willfully violated the judgment dated 24.12.2019 issued by this Court.”

12. The narrow issue which falls for consideration at the present stage is as to whether the Letters Patent Appeal against the order of the Single Judge dated 2 June 2023 was maintainable.
13. The law on the subject is settled by a judgment of a two Judge Bench of this Court in ***Midnapore Peoples' Coop. Bank Ltd. and Others v. Chunilal Nanda and Others***.¹ Paragraph 11 of the decision sums up the principles succinctly as follows :

"11 The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

 - I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.
 - II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.
 - III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

¹ [2006] Supp. 2 SCR 986 : (2006) 5 SCC 299

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- IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.
- V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

The first point is answered accordingly.”

- 14. Following the decision in *Midnapore Peoples' Coop. Bank Ltd.*, it is a settled principle that an appeal under Section 19 lies only against an order imposing punishment for contempt.
- 15. In the order dated 2 June 2023, it has been held that the respondents before the Court, namely, the appellants to these proceedings are guilty of contempt. A Letters Patent Appeal would not be maintainable under Section 19, if the matter were to only rest there. However, from the extracts which have been reproduced in the earlier part of this judgment, it is evident that the Single Judge:
 - (i) Recorded the submission of the respondent herein (as set out in the written submissions dated 2 March 2023) that even if the implementation of the minor penalty was to take effect from 16 October 2018, he would be entitled to all promotions till the rank of IG from 2021 till the date of his retirement on 31 March 2023; and

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- (ii) Held that there was willful disobedience of the directions issued by the Division Bench on 24 December 2019 with respect to pay fixation, seniority and all other consequential benefits including promotion.
16. The Single Judge, after recording the submissions as adverted to above, entered a specific finding in paragraph 39 that “this court is therefore, of the opinion that there is willful disobedience” (emphasis supplied). The above finding follows immediately upon the previous paragraph of the order which records the contention of the respondent herein that he was entitled to promotion to the rank of IG, in any event with effect from 2021.
17. Bearing in mind the above finding, the Single Judge gave an opportunity to the appellants “to issue a fresh order granting promotion to the petitioner to the rank of IG” to bring him at par with his immediate junior. Reading the entirety of the order of the Single Judge, it is clear that besides holding that the appellants (who were the respondents before the Single Judge) were guilty of contempt of court, there is a crystallized finding that the respondent herein was entitled to promotion as IG, in any event with effect from 2021.
18. The Division Bench has lost sight of this aspect. The Division Bench, in paragraph 52, noted the submission of the respondent that the judgment of the Single Judge should not be construed as crystallizing any right in favour of the respondent and should only be confined to the question as to whether the appellants herein had committed a willful disobedience of the order of the Division Bench dated 24 December 2019. The Division Bench accepted this submission and observed that “in view of our understanding of the impugned judgment, as noted above, the learned Single Judge has not decided any dispute regarding the rights and obligations of the parties” other than adjudicating on the issue of contempt. The judgment of the Division Bench lost sight of the fact that whether the appeal was maintainable would have to be construed on a plain reading of the judgment of the Single Judge. Two aspects were covered by the judgment of the Single Judge :

Firstly, a finding that the appellants were guilty of contempt of the order dated 24 December 2019; and

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Secondly, that the respondent was entitled to promotion to the rank of IG.

The first aspect is not amenable to an appeal under Section 19 at the present stage. The finding that the respondent was entitled to promotion to the rank of IG would be amenable to an appeal in terms of the law laid down by this Court in *Midnapore Peoples' Coop. Bank Ltd. (supra)*, more particularly in paragraph 11(V) which has been extracted above.

19. For the above reasons, we set aside the impugned judgment and order of the Division Bench dated 10 May 2024 and restore Letters Patent Appeal 157 of 2024 in Contempt Case No 198 of 2020 together with the associated interlocutory applications to the file of the Division Bench for consideration on merits in terms of the above directions.
20. Mr Sanjay Ghosh, senior counsel appearing for the respondent states that no coercive steps would be taken against the appellants till the next date of listing before the High Court of Delhi.
21. All the contentions of the parties on the merits of the Letters Patent Appeal are kept open.
22. The Delhi High Court may consistent with the exigencies of work, take up the Letters Patent Appeal for expeditious disposal.
23. The Appeals are accordingly allowed in the above terms.
24. Pending applications, if any, stand disposed of.

Result of the case: Appeals allowed.

[†]*Headnotes prepared by:* Swathi H. Prasad, Hon. Associate Editor
(Verified by: Kanu Agrawal, Adv.)