



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3565]

**TUESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CONTEMPT APPEAL NO: 31/2023

Between:

**1.P KOTESWARA RAO, I.A.S, DISTRICT COLLECTOR KURNOOL
DISTRICT KURNOOL**

...APPLICANT

AND

**1.KAMMARA UPENDRACHARI, S/O LATE THIRUPATHAIAH AGED
ABOUT 62 YEARS FORMER SENIOR ASSISTANT RIO H NO
871181/1 NAGIREDDY REVENUE COLONY KURNOOL KURNOOL
DISTRICT.**

**2.A SRINIVAS, REVENUE DIVISIONAL OFFICER NANDYALA.
(RESPONDENT NO.2 IS NOT NECESSARY PARTY TO THIS
APPEAL)**

...RESPONDENT(S):

**Pleaded to set aside the Order passed in CC.No.1118 of 2023 dated
14.07.2023 and discharge the Appellant from the above contempt case and
pass**

IA NO: 1 OF 2023

**Petition under Section 151 CPC praying that in the circumstances
stated in the affidavit filed in support of the petition, the High Court may be
pleaded to suspend the operation of the Judgment in CC.No.1118
of 2023 dated 14.07.2023, pending disposal of the Contempt Appeal, in the
interest of justice.**

Counsel for the Applicant:

1.P SUBASH

Counsel for the Respondent(S):

1.SUBBA RAO KORRAPATI

CONTEMPT APPEAL NO: 32/2023

Between:

1. A.SRINIVAS, REVENUE DIVISIONAL OFFICER, NANDYAL

...APPLICANT

AND

1.KAMMARA UPENDRACHARI, S/o. Late Thirupathaiah aged about 62 years Former Senior Assistant R/o. H.No. 871181/1 Nagireddy Revenue Colony Kurnool, Kurnool District

...RESPONDENT

pleased to set aside the order passed in CC No.1118 of 2023 dated 14-07-2023 by allowing the instant Contempt Appeal, in the interest of justice

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the Order dated 14-07-2023 passed in CC No.1118 of 2023 including imposition of fine Rs. 100/- pending disposal of the above Contempt Appeal and pass

Counsel for the Applicant:

1.G V S KISHORE KUMAR

Counsel for the Respondent:

1.SUBBA RAO KORRAPATI

The Court made the following:

THE HON'BLE SRI JUSTICE BATTU DEVANAND
AND
THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CONTEMPT APPEAL Nos:31 AND 32 OF 2023

COMMON JUDGMENT: (per Hon'ble Sri Justice Subhendu Samanta)

1. These instant contempt appeals have been preferred against the order dated 14.07.2023 passed by a learned Single Judge of this Court in contempt case No.1118 of 2023.
2. The contempt case was arisen out of the alleged willful and deliberate disobedience of order passed by the Court dated 18.10.2022 in W.P. No.33879 of 2022. The operative portion of the direction in the writ petition is as follows:

“5. Having regard to the facts and circumstances and without touching the merits of the case, the respondents 2 and 3 are directed to consider and pass appropriate orders on the representations dated 24.08.2022 and 10.10.2022 of the petitioner for encashment of earned leave for 300 days and other pensionary benefits, in accordance with law, within a period of four weeks from the date of receipt of the order.”

3. It was the contention before the learned Single Judge that contemnors being the respondents of the writ petition failed to comply with the order of the Court willfully and deliberately despite legal notice issued by the writ petitioner in favour of the alleged

contemnors. The learned Single Judge after hearing the parties has passed the order of conviction, which reads as under:

“14.Accordingly, the contempt case is allowed and the contemnors/respondents are directed to pay a fine of Rs.100/- (Rupees one hundred only) each, in default of payment of fine, they shall undergo simple imprisonment for a period of one (01) week.”

4. The learned counsel for the appellants submits that there is no willful lapse on behalf of the appellants to comply with the order. It is further contended that they have actually complied the order passed by the learned Single Judge, but there are some unintentional delay. It is further argued by the learned counsel for the appellants that the contemnor No.2 as a competent authority has acted promptly by directing the petitioner for submission of necessary service regularization order, to comply the order of the Court.
5. The learned counsel for the appellants requested to consider the unconditional apology tendered by appellants and prayed to accept the apology by setting aside the order of punishment.
6. The learned counsel for the respondent/ petitioner raised an objection and submits that the contemnors have willfully and deliberately violated the orders of this Court and that the act of the contemnors is highly illegal and contemptuous. He further submits that inspite of the

direction of this Court, the contemnors have rejected the prayer of the petitioner by passing an order dated 19.04.2023.

7. Heard the learned counsel for the parties.
8. It appears that the learned Single Judge has directed contemnors/ respondents 2 and 3 in the writ petition to consider representation of the petitioner dated 24.08.2022 and 10.10.2022 in accordance with law within a period of four weeks from the date of receipt of this order. The order was passed on 18.10.2022. The said order was received by the appellants/ contemnors on 09.11.2022. The appellants ought to have disposed of the representation of the writ petitioner within a period of four weeks from the date of receipt of the order that is within 08.12.2022, but they have not complied with the order. On receiving of a legal notice from the petitioner dated 30.12.2022, the 1st respondent addressed a letter dated 24.02.2023 to the 2nd respondent with some directions. However, during the pendency of the contempt case, the contemnors have rejected the representation of the petitioner vide order dated 19.04.2023. Thus, it is clear that the order of the Court was actually complied with after a period of four months as stipulated by the Court. In this particular case, though the order was complied with, but it was not in its true letter and spirit. Thereby there is a delay of four months in complying with the order. Thus, the learned Single Judge has recorded in his order that the

contemnors, who are holding senior positions in Government, should have complied with the order with promptitude and within the time stipulated for its compliance.

9. Actually in this case there are four months delay in compliance of the order. It appears from the impugned order in contempt case that after receiving legal notice from the writ petitioner, the 1st respondent has issued a letter dated 24.02.2023 to the 2nd respondent so that petitioner grievance of encashment of earned leave for 300 days and other pensionary benefits may be accorded. Though, finally the appellants, who are the contemnors, have rejected the representation of the petitioner for non submission of necessary document of regularization of service, but it appears that they have proceeded to comply with the order of the learned Single Judge after two months of the time stipulated for its compliance.
10. In our view, a Court dealing with a contempt case can verify following points only:-
- I. Whether order under contempt was properly communicated to alleged contemnor;
 - II. When such order was communicated;
 - III. Whether alleged contemnor is in a position to understand the directions of the Court;
 - IV. Whether alleged contemnor is in a position or authority to comply the order;

- V. Whether alleged contemnor within his authority acted diligently to comply the order in its true letter and spirit.
- VI. Whether there are willful latches and disobedience on the part of the alleged contemnor to comply the order.

11. Following points cannot be determined in contempt case:

- I. Jurisdiction of the Court who passed the direction;
- II. Merit of the matter in which the direction was passed;
- III. Merit of the direction;
- IV. Question as to whether the direction can be capable of being complied;
- V. Other all points which can be determined only by appellate Court.

12. In contempt appeal, the Appellate Court,

- I. Can verify the correctness of only those points to be determined by the Court passing order of punishment;
- II. Whether the order is appellable under Section 19 of the Contempt Courts Act;
- III. Correctness of extent and quantum of punishment;
- IV. Whether the punishment is commensurate to the alleged disobedience ;

12. At this juncture, the learned counsel for the appellants tendered unconditional apology for such delay in complying with the order. In considering the entire facts and circumstances, it appears that the

learned Single Judge has recorded his dissatisfaction to the action of the contemnors.

13. The appellants, being the senior officials of the Government should have more careful in future in complying with the order of the Court in its true letter and spirit. Casual approach of Government Officials in complying with directions of Constitution Bench not only derogatory towards the Constitution of India, but also shameful to its official position and dignity.
14. However, as an unconditional apology was tendered on behalf of the appellants. The same is accepted with stricture.
15. Under the above observations, the punishment of fine imposed by the learned Single Judge is set aside accepting the unconditional apology of the appellants.
16. Accordingly, the instant contempt appeals are allowed. No costs.
17. Miscellaneous petitions, if any, pending in these contempt appeals shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE SUBHENDU SAMANTA

Dt.17.03.2026
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