

# SUPREME COURT OF INDIA

Dr.Abhinav Gupta

Vs.

Prof.G.K.Mehta Erstwhile Vice Chancellor University of Allahabad

C.A.No.2198 of 2006

(Kurian Joseph and R.Banumathi,JJ.,)

09.08.2017

## JUDGMENT

### **Kurian Joseph,J.,**

1. When the matter was taken up today, the learned counsel for the respondent was not present.

2. The appellant approached this Court, aggrieved by the order dated 30.09.2005 in Civil Misc. Contempt Application No. 273 of 2004 passed by the High Court of judicature at Allahabad. This order was passed in the contempt jurisdiction. The impugned order reads as follows:-

"This contempt petition has been filed with the allegation that the order of the writ court dated 11-11-2003 passed in writ petition No. 34181 of 2003 has been violated.

Upon issuance of notice, affidavits have been exchanged between the parties. It is not denied that the applicant has already been reinstated and is being paid salary of lecturer from the date of judgment. In my view, there is substantial compliance of the writ order. In view of the aforesaid, notices are discharged. Contempt petition is rejected and consigned to record."

3. When the matter was pending before this Court, the Registrar of the University of Allahabad filed a detailed affidavit dated 11.11.2014. Paragraph ' o ' of the affidavit reads as follows:-

"The University thereafter became a Central University in 2005 as mentioned above. The deponent, the alleged contemnor was appointed as Officiating Registrar on 20.12.2012 of the University. This case was never brought to his notice before and it was only after the show cause notice in the suo moto contempt as mentioned above, he gathered the papers of the case and took immediate steps for release of the arrears

of payment of salary to the Appellant. A cheque No. 666475 dated 10.11.2014 drawn on State Bank of India, Allahabad University Branch for a sum of Rs. 13,11,518/- after deducting income tax of Rs. 5,86,482/- from the total arrears of Rs. 18,98,000/- is being tendered in the court to the appellant subject to the final outcome of the present Civil Appeal."

4. The learned counsel for the appellant submits that there are two surviving grievances, one regarding regularization and other regarding seniority. As far as regularization is concerned, at paragraphs 'j' and 'k', it is stated as follows :-

"(j) In the meantime, since there was no post of lecturer available in the Visual Arts Department of the University against which Dr. Abhinav Gupta could have been regularised, the University approached the State Government for creation of a post of lecturer in the Department of Visual Arts in the pay scale of Rs. 8000-13500. It was only on 26.05.2004, the State Government communicated its decision for creation of a post of a lecturer in the Department of Visual Arts in the University w.e.f. 11.11.2003, the date of the judgment of the Hon'ble High Court in C.M.W.P. No. 34181 of 2003 in compliance of the order passed by the Hon'ble High Court for Dr. Abhinav Gupta and it was specifically mentioned that the said post would only remain in existence as long as Dr. Abhinav Gupta was in the University and thereafter, the post should automatically cease to exist

k. After the aforesaid sanction from the State Government for creation of a post of lecturer for Dr. Abhinav Gupta, the services of Dr. Gupta were regularized as lecturer in the pay scale of Rs. 8000-13500 w.e.f. 11.11.2003 vide University order dated 28.05.2004. A sum of Rs. 73,482/- was paid to the Appellant towards arrears w.e.f. 11.11.2003 till the date of order of regularisation dated 28.05.2004. In the meantime, Dr. Abhinav Gupta filed Contempt Petition before the Hon'ble High Court for non-compliance of the order dated 11.11.2003 and claiming more than 18 lakhs rupees as arrears for payment from the date of his initial appointment as a guest lecturer in the Department of Visual Arts of the Allahabad University. The Hon'ble High Court on 28.05.2004 passed an order in the aforesaid contempt proceedings giving an opportunity to the University authorities to comply with the order dated 29.07.2004 or obtain suitable interim order in the pending Special Leave Petition filed against the order dated 11.11.2003 "

5. As far as the seniority is concerned, it will depend on regularisation.

6. Being a contempt jurisdiction, we are not quite sure as to whether there are any affected parties in the department. Therefore, this appeal is disposed of as follows:-

"i) In case the appellant has any surviving grievance with regard to his date of regularisation, it will be open to him to file an appropriate representation before the Vice-Chancellor of the University.

ii) It will also be open to him to raise his grievance regarding the seniority as well. The representation is permitted to be filed within one month from today. In the event of filing the representation within one month from today, we direct the Vice-Chancellor of the University to consider the representation and pass orders on merits on the representation after affording an opportunity of hearing to the appellant and any other person who is likely to be affected. The orders, as above, shall be passed by the Vice-Chancellor within three months from the date of receipt of the representation.

7. According to the learned counsel for the appellant, all the controversies regarding appointment and regularisation have been settled by Judgments. If that be so, the settled position will be brought to the notice of the Vice-Chancellor and he will necessarily take appropriate decision having regard to the settled position.

8. No costs.