

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Reserve: 7th January, 2010
Date of Order: 27th January, 2010

CONT. CAS (C) No. 623/2008

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27.01.2010

Shri B.P.Kaushik

... Petitioner

Through: Mr. O.P. Gehlot, Advocate.

Versus

Shri Rakesh Behari & Anr.

... Respondents

Through: Ms. Avnish Ahlawat, Advocate.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

JUDGMENT

This petition has been filed under Contempt of Court Act against respondents alleging non-compliance of the order dated 18.9.2007 and 4.4.2008. Vide order dated 18.9.2007, the Court had disposed of the Writ WP(C) No. 12048-12050/2006 holding that there was no ground to interfere with the order of the Central Administrative Tribunal. Vide order dated 4.4.2008 this Court disposed of a review petition filed by the respondent for reviewing the order dated 18.9.2007 and observed that review petition was devoid of any merits.

2. The order of the Tribunal, which was subject matter of challenge in Writ Petition, had upheld the right of the petitioner to have pension and pensionary benefits in terms of regulation 15-D and the Tribunal had directed the respondent to release all such terminal benefits viz. pension gratuity, commutation etc. The respondent herein filed an affidavit stating that after the order of Tribunal was upheld by this Court and review was dismissed the respondent had filed an appeal before the Supreme Court being SLP No. 1414-1417 of 2009 which was dismissed on 13.2.2009. After dismissal of the SLP, immediately the pension case was sent to PAO-XIV for sanction of pension and issuance of Pension Payment Order. The Regional Provident Commissioner vide letter dated 2.3.2009 was requested by the respondent to transfer the employer's shares of the petitioner to A&U Tibbia College

and EPFO office sent a cheque of Rs.3,49,604/- dated 31.3.2009 to the pension office. By way of additional affidavit the respondent stated that the pension, gratuity and all other dues of the petitioner were paid after adjusting the license fee and damages charges, payable by the petitioner and the money due towards the petitioner was deposited in the account informed by the petitioner. The license fee was deducted from petitioner's dues as per petitioners own undertaking that he had no objection if the dues of the institution i.e. A&U Tibbia College, payable by him were recovered from his gratuity, leave encashment etc. The contention of the petitioner is that deduction of his dues from gratuity, leave encashment etc. was not permissible under law and this amounted to the contempt of the court.

3. I find that the plea taken by the petitioner is baseless. I have seen the documents placed on record whereby the petitioner had in its own handwriting given an undertaking to the respondent that he had no objection if the dues of the institution (A&U Tibbia College) are recovered from his gratuity leave encashment. In view of this undertaking, I consider that the respondent was perfectly justified in adjusting the dues payable by the petitioner out of the amount payable to the petitioner under gratuity leave encashment etc. I find that this contempt petition is misconceived and an exercise to blackmail. I dismiss this contempt petition with costs of Rs.10,000/-.

January 27, 2010
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SHIV NARAYAN DHINGRA, J.