

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2089 of 2023

Applicant :- Ram Kailash Prasad

Opposite Party :- Shiv Poojan Singh, The Finance Controller , UP Police Headquarters And 2 Others

Counsel for Applicant :- Archana Singh, Bramh Narayan Singh

Hon'ble Rohit Ranjan Agarwal, J.

The writ Court on 05.12.2022 while allowing the Writ-A No. 16771 of 2021 passed the following order;

"Heard learned Counsel for the petitioner and learned Standing Counsel.

The contention of the Counsel for the petitioner is that the amount shall not be recovered from the petitioner in view of the law laid down by the Hon'ble Supreme Court in the case of State of Punjab vs Rafiq Masih (White Washer); (2015) 4 SCC 334.

The learned Standing Counsel on the basis of the counter affidavit argues that the amount which is sought to be recovered from the petitioner, was paid to the petitioner on account of wrong grant of ACP and as such, the same are rightly sought to be recovered.

The stand of the Counsel for the State is no worthy of acceptance in view of the law laid down in the case of Rafiq Masih (supra), as such, the recovery order dated 16.10.2021 is set aside.

The writ petition is allowed with a direction to the respondents to pay the retiral dues to the petitioner within a period of three months from the date of production of certified copy of this order."

The said order was, thereafter, corrected on 08.12.2022 in I.A. No. 06 of 2022 and writ Court had passed the following order;

"The application has been filed seeking correction in the order dated 05.12.2022.

It is stated that in the last para of the order, inadvertently the direction was issued to pay the retiral dues of the petitioner, whereas it should be refund the amount deducted from the retiral dues of the petitioner.

The application is allowed.

The order dated 05.12.2022 is corrected to the extent that the writ petition is allowed with direction to the respondents to pay the amounts illegally deducted from the retiral dues of the petitioner within a period of three

months."

A compliance affidavit has been filed on behalf of State wherein in paragraph no. 6 it has been mentioned that a refund of Rs. 805558/- has been paid to the applicant on 18.04.2023, copy of the order passed by the opposite party has been brought on record as annexure No. 1 to the compliance affidavit.

Learned counsel for the applicant states that entire amount, as stated by the opposite party, has not been refunded to the applicant and it is the Chief Treasury Officer Deoria who is withholding some of the amount i.e. 213000/-.

This Court after hearing learned counsel for the parties as well as after perusing the material on record, finds that the recovery order dated 16.10.2021 was set-aside by the writ Court and a direction was issued to the opposite party to pay the amount which has been illegally deducted.

The affidavit of the State is that the amount which was deducted, has been paid to the applicant.

From perusal of the order dated 16.10.2021 it transpires that there is no mention of any figure as to the amount which has been deducted by the opposite party. This Court finds that as the order of writ Court has been complied by the opposite party, no case for contempt is made out.

Contempt application stands dismissed. However, leaving it open to the applicant to approach the appropriate forum for redressal of his grievances if any left unattended pursuant to the order of writ Court, if so advised.

Contempt notice stands discharged.

File consign to record.

Order Date :- 16.10.2023

Shekhar