

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3170 of 2022

Applicant :- Urmila Devi

Opposite Party :- J.K. Gupta, Engineer

Counsel for Applicant :- Ashutosh Kumar Rai

Counsel for Opposite Party :- Sanjay Kumar Om

Hon'ble Rohit Ranjan Agarwal, J.

1. The writ Court on 17.09.2021 while disposing of Writ - A No.11664 of 2021 has passed the following order :

"Heard learned counsel for the petitioner, Sri Vimlesh Kumar Rai who appears for the respondent-Jal Nigam and the learned Standing Counsel for the State.

*Sri Rai learned counsel representing the fourth respondents states that subject to verification of all facts and contentions on merits being kept open, the claim of the petitioner as raised in this writ petition shall be duly considered and disposed of in accordance with law with expedition and preferably within a period of three months from the date of presentation of a duly authenticated copy of this order. He further states that the claim of the petitioner for payment of interest on delayed disbursement of retiral benefits shall also be considered and decided in accordance with law and bearing in mind the decision of the Court rendered in the matter of **Yogendra Singh Vs. State of U.P. [(2017) 1 ALJ 121]**.*

Accordingly and without going into the merits or otherwise of the claim of the petitioner, this petition shall stand disposed of in light of the statement noted above."

2. A compliance affidavit as well as supplementary compliance affidavit has been filed wherein it has been stated that entire dues along with interest has been made to the applicant.

3. Learned counsel for the applicant states that only Rs.39,658/- has been given towards the interest which is a meagre amount.

4. This Court finds that the only order of the writ Court was to consider the representation of the applicant which the opposite party has done and paid the entire dues along with interest. This is a Court of 'execution' and not of 'adjudication'.

5. Recently the Apex Court in **Dr. U.N. Bora, Ex. Chief Executive Officer and**

others Vs. Assam Roller Flour Mills Association and another 2022 (1) SCC 101

has held that the while dealing with a contempt petition, the Court is not expected to conduct a roving inquiry. Relevant para 8 of the judgment is extracted hereas under :

"8. We are dealing with a civil contempt. The Contempt of Courts Act, 1971 explains a civil contempt to mean a willful disobedience of a decision of the Court. Therefore, what is relevant is the "willful" disobedience. Knowledge acquires substantial importance qua a contempt order. Merely because a subordinate official acted in disregard of an order passed by the Court, a liability cannot be fastened on a higher official in the absence of knowledge. When two views are possible, the element of willfulness vanishes as it involves a mental element. It is a deliberate, conscious and intentional act. What is required is a proof beyond reasonable doubt since the proceedings are quasi-criminal in nature. Similarly, when a distinct mechanism is provided and that too, in the same judgment alleged to have been violated, a party has to exhaust the same before approaching the court in exercise of its jurisdiction under the Contempt of Courts Act, 1971. It is well open to the said party to contend that the benefit of the order passed has not been actually given, through separate proceedings while seeking appropriate relief but certainly not by way of a contempt proceeding. While dealing with a contempt petition, the Court is not expected to conduct a roving inquiry and go beyond the very judgment which was allegedly violated. The said principle has to be applied with more vigor when disputed questions of facts are involved and they were raised earlier but consciously not dealt with by creating a specific forum to decide the original proceedings."

6. This Court finds that dispute in regard to quantum of interest cannot be adjudicated by this Court exercising power under Section 12 of the Contempt of Courts Act.

7. Contempt application is misconceived and hereby dismissed.

8. Contempt notice stands discharged.

Order Date :- 26.10.2023

Kushal