

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 5010 of 2022

Applicant :- Kallu

Opposite Party :- Rajeev Kumar, Divisional Director Social Forestry

Counsel for Applicant :- Anil Kumar Shukla, Sarita Jhingan

Hon'ble Rohit Ranjan Agarwal, J.

The writ Court on 15.06.2021 while issuing an interim mandamus in Writ-A No. 5170 of 2021 had passed the following order:-

"It is submitted by the learned counsel for the petitioner that he is working as a Daily Wage Class IV employee in the Forest Department since March, 2019. The petitioner is being paid paltry wages. The submission is that going by the decision of the Supreme Court in State of U.P. and Others Vs. Putti Lal, 2002 (2) UPLBEC 1595 and Sabha Shankar Dubey Vs. Divisional Forest Officer, Civil Appeal No.10956 of 2018, decided on 14.11.2018, the petitioner is entitled to the minimum pay-scale that his counterparts in regular service of the respondents receive, though he may not be entitled to increments and other benefits.

A prima facie case is made out.

Admit.

Issue notice.

Notice on behalf of all the respondents is accepted by the learned Standing Counsel. He is granted four weeks time to file a counter affidavit.

List this petition for orders on 16.07.2021 in the additional cause list.

Order on Civil Misc. Stay Application No.1 of 2021

Issue notice.

Considering the decision of the Supreme Court in State of U.P. and Others Vs. Putti Lal, 2002 (2) UPLBEC 1595 and Sabha Shankar Dubey Vs. Divisional Forest Officer, Civil Appeal No.10956 of 2018, decided on 14.11.2018, let an interim mandamus issue to the respondents ordering them to pay the petitioner minimum pay-scale admissible to a regularly appointed Class IV employee of the Forest Department within four weeks or to show-cause by the date fixed through a counter affidavit, why this interim mandamus be not made absolute.

Let this order be communicated to the Principal Secretary, Forest Department, U.P. Lucknow, the Principal Chief Conservator of Forest, Lucknow, the Conservator of Forest, Moradabad Circle Moradabad, and the Divisional Director Social Forestry, Forest Division, Rampur through the Registrar (Compliance) within 72 hours."

A compliance affidavit has been filed by State on 23.11.2022 wherein it has been stated that order of writ Court has been complied with and an order has been passed on 21.11.222 sanctioning the minimum pay scale of the applicant.

A reply has been filed today on behalf of the applicant alleging that only Rs.7,000/- per month is being paid as minimum of pay scale but he is entitled for Rs.18,000/- per month as minimum of pay scale.

This Court finds that writ petition is still pending and writ Court had only issued an interim mandamus to opposite party for payment of minimum of pay-scale admissible to a regularly appointed Class IV employee of the Forest Department and the authorities are paying Rs.7,000/- per month as minimum of pay scale.

As the amount of minimum of pay scale is being disputed by applicant, this Court cannot go into the disputed question of fact as has been recently held by Hon'ble 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** that contempt court cannot do roving enquiry in the matter while executing an order of adjudicating court.

The contempt application is misconceived and stands dismissed.

However, leaving it open to the applicant to get his writ petition decided by writ Court and raise all factual disputes as to the payment of minimum of pay scale.

Order Date :- 27.10.2023

V.S.Singh