

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3220 of 2015

Applicant :- Archit Shukla And Anr.

Opposite Party :- Sri Heera Lal Gupta Prin. Secy. Basic Education

Counsel for Applicant :- Aalok Kumar Srivastava, Piyush Shukla, Rajesh Kumar Nishad, Satyam Pandey, Shyam Singh Sengar

Counsel for Opposite Party :- S.C.

Hon'ble Rohit Ranjan Agarwal, J.

1. The writ Court while disposing of Writ-A No.3149 of 2015 on 28.01.2015 passed the following order :

"Heard learned counsel for the petitioners, Sri Pankaj Rai, learned Additional Chief Standing Counsel for the respondent Nos. 1, 2 & 6, Sri Pankaj Kumar Singh, learned counsel for the respondent Nos. 3 & 4 and Sri S.N. Singh, learned counsel for the respondent No. 5.

By means of the present writ petition, the petitioners have prayed for a direction in the nature of mandamus commanding the respondent No. 2 to make payment of death gratuity, leave encashment, medical reimbursement etc. amounting Rs. 10,18,734/- with 18% interest to the petitioners within reasonable time.

It appears from the record that the father of the petitioners Late Neeraj Kumar Shukla got appointment in U.P. State Handloom Corporation Ltd. (herein after referred as "Corporation") on 01.02.1998 as Assistant Accountant. In the year 1998, the father of the petitioners was sent on deputation in the Educational Project of Basic Education under project of State Government. Vide order dated 15.12.1998, he was appointed as Accountant by way of deputation in State Project of Basic Education from his parent Department and subsequently, on the deputation, he was appointed at created post of Accountant at Lucknow in the pay scale of Rs. 1400-2600. Thereafter, vide order dated 11.5.2000 passed by the respondent No. 6, father of the petitioners was transferred with immediate effect to District Kanpur Dehat on same post as Accountant under District Primary Education Program-III (D.P.E.P-III) in the pay scale of Rs. 5000-8000/- .

It also appears from the record that the respondent No. 5 wrote a reminder letter to the respondent No. 6 on 07.12.2004 stating therein that by letter dated 19.05.2004, it was requested to relieve the father of the petitioners in view of the work load of account assistance. It has been averred in the writ petition that in pursuance of the said order, the father of petitioners had never been relieved and unfortunately the father of the petitioners died in harness on 10.06.2012. After demise of the petitioners' father, the wife of the deceased employee had informed to the respondent No. 6 for making retiral dues. In pursuance of the said letter, the District Basic Education Officer, Kanpur Dehat (respondent No. 4) vide letter dated 23.07.2013 had requested to the General Manager, U.P. State Handloom Nideshalay, Kanpur for

making necessary payment of retiral benefits. Unfortunately, it appears from the record that mother of the petitioners also died on 11.7.2013. Thereafter, a registered letter dated 27.09.2013 was sent by Chief Finance and Accountant Officer to respondent No. 6 for necessary payment. Thereafter, the Managing Director, Uttar Pradesh State Handloom Corporation Ltd., Kabir Bhawan again sent letter to the respondent No. 6 on 26.02.2014 to make payment of retiral benefits amounting Rs. 10,18,734/- to the heirs of the deceased.

Learned counsel for the petitioners submits that it is admitted case that inter departmental correspondences had been made and both the departments are instrumentality of the State but anyhow they are shifting their burden to others and petitioners are at the verge of starvation.

Learned counsel for the petitioners further submits that inspite of the best effort made by their mother, the retiral dues could not be made to her during her life time and due to great financial crises, she also died.

It is a sorry state of affairs that inspite of the inter departmental correspondences, till now the admitted amount has not been released in favour of the petitioners, therefore, in this view of the matter, this Court is compelled to direct the Principal Secretary, Department of Basic Education, Government of U.P., Lucknow who may look into the grievance of the petitioners and take appropriate action after ascertaining the complete facts from the department concerned within a period of three weeks from the date of production of a certified copy of this order. If the admitted amount is admissible to be paid to the petitioners, the said amount would be released in favour of the petitioners within another period of two weeks thereafter.

With the aforesaid observation, the writ petition is disposed of."

2. From perusal of the order passed by writ Court it transpires that a direction was issued to the Principal Secretary, Basic Education, U.P. Government to look into the grievance of the applicant and take appropriate action after ascertaining the complete facts from the department.

3. Pursuant to the order of the writ Court, a short counter affidavit was filed on behalf of the opposite party wherein, in paras 8 and 9 it has been mentioned that the leave encashment, medical claim and gratuity of late Neeraj Kumar Shukla, the father of the applicant was sent to the parent department i.e. U.P. State Handloom Corporation Ltd., Kanpur vide cheque No.428 dated 10.10.2013 amounting to Rs.1,11,620/- and vide cheque No.429 dated 11.10.2013 amounting to Rs.1,87,333/- in the name of Smt. Sudha Shukla, widow of late Neeraj Kumar Shukla and the said amount was paid to her. It is further mentioned in para 9 that the death gratuity amount was payable by the U.P. State Handloom Corporation Ltd. and the matter has been sent to the competent authority and with regard to the claim of the applicant nothing remains to be paid by the department of Basic Education.

4. A rejoinder affidavit has been filed on behalf of applicant wherein, in para 7, the contents of paras 8 and 9 have been denied, but in reply it has been submitted that

the Education Department has to pay the entire benefits. Further an amount of Rs.10,18,734/- has been claimed by the applicant.

5. I have heard learned counsel for the parties and perused the material on record.

6. It is not in dispute that late Neeraj Kumar Shukla, father of the applicants, was an employee of U.P. State Handloom Corporation. He was sent on deputation to the Basic Education Department where he unfortunately died. A writ petition has been filed by the legal heirs claiming retiral dues. The Basic Education Department had paid the outstanding dues to the widow of late Neeraj Kumar Shukla.

7. The present contempt application filed at the behest of legal heirs of late Neeraj Kumar Shukla does not disclose about payment made to Smt. Sudha Shukla, widow of late Niraj Kumar Shukla and the claim has been made only on the basis of the advise of some person which has not been disclosed in para 7 of the rejoinder affidavit.

8. This Court finds that as the order of writ Court was only to the extent directing the Principal Secretary, Basic Education to look into the grievance of the applicant and redress the claim, which the opposite party has done, no case for contempt is made out. Contempt application is misconceived. Dismissed.

9. Contempt notice stands discharged.

Order Date :- 22.11.2023

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