

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7249 of 2023

Applicant :- Rama Shankar Mishra

Opposite Party :- Ravi Shankar Sharma, Mantri Kshetriya Sri Gandhi Ashram

Counsel for Applicant :- Ajay Kumar

Counsel for Opposite Party :- Digvijay Singh

Hon'ble Rohit Ranjan Agarwal,J.

A counter affidavit has been filed on behalf of the opposite party which is taken on record.

The writ court on 02-12-2022 while disposing of Writ-A No. 19970 of 2022 had passed the following order:-

"Heard learned counsel for the petitioner, Shri Digvijay Singh, learned counsel for the respondent no. 4 and Shri Kuldeep Singh Chauhan, learned counsel for the respondent no. 1.

This petition has been filed praying for the following relief:-

"Issue a writ, order or direction in the nature of Mandamus commanding/directing the respondent no. 4 (Mantri Kshetriya Sri Gandhi Ashram, Moradabad, Civil Lines, District-Moradabad) release the balance amount in favour of petitioner."

It is the case of the petitioner that Khadi Gram Udyog is run by Khadi and Village Industries under Khadi and Village Industries Commission Act, 1957. The Mantri Kshetriya Sri Gandhi Ashram, the respondent no. 4 at Moradabad is under the administrative control of the Director Khadi Village Industries Commission Divisional Office at Meerut.

The petitioner was engaged initially as a trainee and on completion of training on 01.01.1980 a letter was issued in his favour by the respondent no. 4 appointing him at Moradabad. The petitioner continued to work with the respondent no. 4 since his joining and he retired in the year 2018. On the basis of letter of retirement given by the respondent no. 4 dated 30.07.2018 he has not been given his gratuity.

The petitioner has made representation to the respondent no. 4 and also to the respondent no. 3 and thereafter sent repeated reminders. No heed has been paid. Hence this petition.

Learned counsel for the respondent no. 4 on the basis of instructions states that the Kshetriya Khadi Sri Gandhi Ashram comes under the payment of Gratuity Act, 1972 and being an employer as defined under the Act of 1972 and the respondent being an employee is defined under Section 2 (e) of the Act, 1972 the petitioner should approach the Controlling Authority under Section 3 for payment of gratuity.

This petition is disposed of with a direction to the petitioner to approach the Controlling Authority under Section 3 of the payment of Gratuity Act, 1972 within a period of three weeks from today. If such an application is made the same shall be decided as expeditiously as possible after giving notice to his employer by the Controlling Authority. "

From the perusal of the order passed by the writ court it is clear that the writ court has granted leverage to the applicant to approach the Controlling Authority under Section 3 of the Payment of Gratuity Act, 1972 for redressal of his grievance.

This Court finds that the applicant has not approached the Controlling Authority instead he has relied upon a correspondence made by the opposite party on 30-01-2023 and has filed contempt application against the opposite party who is an employer. As the application was to be decided under the Payment of Gratuity Act, 1972 by the Controlling Authority and not by the opposite party, the present contempt application is misconceived and stands dismissed.

Order Date :- 30.11.2023

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