

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 6228 of 2018

Applicant :- Suresh Chandra Mittal

Opposite Party :- Vimal Kumar Dubey Managing Director U.P. Cooperative Sugar Factories Ltd.

Counsel for Applicant :- Santosh Kumar Pandey, Rajnish Kumar Pandey

Counsel for Opposite Party :- Ravindra Singh

Hon'ble Rohit Ranjan Agarwal, J.

1. The writ Court on 19.12.2017 while allowing the Writ-A No. 49274 of 2016 passed the following order;

"Heard Shri Pawan Kumar Srivastava, learned counsel for the petitioner and learned Standing Counsel for the respondent No.1 and Shri Ravindra Singh, learned counsel for the respondent Nos. 2 to 4.

The only relief sought in this writ petition is regarding the payment of interest at the rate of 18 per cent on the delayed payment of post retiral dues of the petitioner. It is admitted position that the dues of the petitioner were paid after delay about three years.

The respondent No. 2 is directed to make payment of 7 per cent interest on the delayed payment of post retiral dues of the petitioner within a period of two months from the date of production of certified copy of this order before him.

The interest of 7% awarded in favour petitioner is in the nature of compensation as the petitioner had right to use the said amount but on account of fault of the respondents he was deprived of the same.

In Abati Bezbaruah V. Deputy Director General, Geological Survey of India, (2003) 3 SCC: AIR 2003 SC 1817: 2003 AIR SCW 1266, the apex court held that interest is a compensation for forbearance from detention of money and that interest being awarded to a party only for being kept out of the money which ought to have been paid to him.

In Secretary, Irrigation Department, Government of Orissa V. G.C. Roy, AIR 1992 SC 732: 1992 AIR SCW 389: (1992) 1 SCC 508, the Constitution Bench of the apex court observed that a person deprived of use of money to which he is legitimately entitled as of right, to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages.

The writ petition is, accordingly, allowed. No costs."

2. From perusal of the order of writ Court it is clear that the writ

Court had awarded 7% interest to be paid by the opposite party to the applicant on the delayed payment of post retiral dues.

3. A compliance affidavit was filed on behalf of the opposite party on 04.01.2019 wherein in paragraph no. 5 it has been stated that an amount of Rs. 1,14,947/- being the interest on the delayed payment has been paid to the applicant vide cheque no. 757205 on 02.01.2019 at the rate of 7%, as directed by the writ Court.

4. As the other dues have already been paid such as gratuity, leave encashment to the applicant, the order of writ Court has been complied by the opposite party and, as such, contempt application stands disposed off.

5. Further, learned counsel for the applicant has submitted that the interest amount calculated by the opposite party is not correct and he disputes the amount paid to the applicant.

6. This Court finds that it is the Court of execution and not a Court of adjudication as held by the Apex Court in case of **Dr. U.N. Bora, Ex. Chief Executive Officer and others Vs. Assam Roller Flour Mills Association and another 2022 (1) SCC 101**. Relevant paragraph no. 8 of the said judgment is extracted here as 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."

7. As the disputed question of fact cannot be adjudicated in contempt proceedings under Section 12 of the Contempt of Courts

Act, this Court leaves it open to the applicant to approach the appropriate forum for redressal of his grievance, if any left and unattended by the opposite party, as to the quantum of interest paid by the opposite party, if so advised.

8. Contempt notice stands discharged.

9. File consign to record.

Order Date :- 8.11.2023

Shekhar