

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7976 of 2023

Applicant :- Sahab Singh

Opposite Party :- Sanjay Chauhan, Nagar Ayukt And Another

Counsel for Applicant :- Sanjeev Kumar Rai

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 30.05.2023 in Writ-A no. 7308 of 2023 passed the following order:-

"Heard Shri Sanjeev Kumar Rai, learned counsel for the petitioner, Shri Devendra Kumar, learned counsel for respondent nos. 3,4 and 5 and the learned standing counsel for the state respondents.

2. Grievance of the petitioner as ventilated through this petition is that petitioner was initially appointed on the post of Revenue and Tax Inspector on 14.12.1995 and thereafter extended the benefit of Assured Career Progression Scheme (A.C.P) and provided pay band of Rs.15600 - Rs.39100, grade pay Rs.5400 on the post of Tax Assessment Officer, Nagar Nigam, Moradabad vide order dated 9.3.2019. After getting the benefit of A.C.P petitioner was given the amount of arrears. Thereafter by order dated 27.9.2019 office order dated 9.3.2019 petitioner's grade pay was amended as Rs.4600/-. It is further contended that a recovery notice dated 19.11.2022 for recovering the amount of Rs.23,47,014/- from the petitioner has been issued. In this regard learned counsel for the petitioner has relied upon a judgment delivered by the Hon'ble Supreme Court in State of Punjab and others Versus Rafeek Masih (whitewasher) and others reported in 2015 (4) S.C.C. 332.

3. Learned standing counsel prays for and is granted four weeks time to file counter affidavit detailing the above factual position. Two weeks thereafter will be available to the learned counsel for the petitioner for filing rejoinder affidavit.

4. List before Registrar for completion of pleadings wherein not more than two opportunities shall be afforded to either of the parties for exchange of the affidavits.

5. List thereafter before appropriate court.

6. Till the next date of listing effect and operation of impugned recovery order dated 19.11.2022 issued by Upper Nagar Ayukt, Nagar Nigam, Moradabad, i.e, respondent no.4 shall remain stayed."

Further, the order dated 30.05.2023 was corrected by order dated 14.07.2023, which reads as under:-

"1. This is an application seeking correction in the eighth line of second paragraph of the order dated 30.5.2023, wherein "Tax Assessment Officer" has inadvertently been typed out in place of "Tax Superintendent".

2. Correction application is allowed. In the eighth line of second paragraph of the order dated 30.5.2023, "Tax Assessment Officer", now be read as "Tax Superintendent."

3. This correction shall be treated as part of the order dated 30.5.2023."

From perusal of the order passed by writ Court, it appears that recovery order dated 19.11.2022 issued by opposite party has been stayed.

Learned counsel for the applicant contends that salary has not been paid.

This Court after hearing learned counsel for the applicant finds that only recovery order has been stayed which was issued by opposite party and no direction for payment of salary was issued.

No case for contempt is made out.

The contempt application is misconceived and stands dismissed at this stage.

Order Date :- 1.11.2023

V.S.Singh