

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2017 of 2021

Applicant :- Akhileshwar Nath Verma And Anr

Opposite Party :- Mukesh Kumar Meshram Prin Secy Cultural Affairs
Lko And 2 Ors

Counsel for Applicant :- Sameer Kalia, Srideep Chatterjee

Counsel for Opposite Party :- Santosh Kr. Yadav Warsi

Hon'ble Rajesh Singh Chauhan, J.

1. Heard learned counsel for the petitioners and learned Standing Counsel.

2. As per the order of Writ Court, the direction was issued to the Competent Authority concerned to make payment of retiral dues to the petitioners strictly in accordance with law. For the convenience, the order of Writ Court dated 05.08.2021 passed in Writ Petition No. 16799 (SS) of 2021 is reproduced herein-below:

"Heard Sri Sameer Kalia, learned counsel for the petitioners, Ms. Parul Bajpai, learned Standing Counsel for the opposite party Nos.1 and 2.

The notices on behalf of opposite party Nos.3 to 5 have been accepted by Sri Santosh Kumar Yadav Warsi, Advocate.

By means of this writ petition, the petitioners have prayed for the following reliefs:-

"(i) to issue a writ, order or direction in the nature of mandamus commanding the respondents to immediately release the admitted admissible amount of pension and leave encashment of the deceased employee with interest at the rate this Hon'ble Court deems fit, w.e.f. 01.09.2017 till the date of actual payment.

(ii) to issue a writ, order or direction in the nature of mandamus commanding the respondents to pay interest at the rate of this Hon'ble Court deems fit on delayed payment of the amount of GPF and insurance Fund w.e.f. 01.09.2017 till the date of actual payment.

(iii) to issue a writ, order or direction in the nature of mandamus commanding the respondents to pay family pension to the petitioners w.e.f. 09.01.2021 along with arrears with interest at the rate this Hon'ble Court deems fit."

Learned counsel for the petitioners has contended that inaction on the part of the opposite parties withholding the post retiral benefits of an employee, Alka Rani, (since deceased) without any rhyme or reason is absolutely unwarranted and arbitrary action of the authorities. It has been contended by Sri Kalia that the post retiral dues were admissible with effect from 01.09.2017 and the said employee represented to the concerning authorities time and again for getting her post retiral dues, but to no avail, and she expired in a pathetic condition.

Sri Kalia has submitted that the payment of post retiral dues was to be made by the University in question but the University has shifted the liability upon the shoulder of the State Government by submitting that unless the State Government takes appropriate decision such payment cannot be made to the employee concerned, who is now deceased.

On the other hand, Sri Santosh Kumar Yadav Warsi has informed the Court that the required correspondence has been made by the University to the State Government, but to no avail.

Sri Kalia has further submitted that when the employee was alive she not only completed all the required formalities for getting the post retiral dues but apprised her plight to the authority concerned time and again, but to no avail. She died on 08.01.2021 and since then the present petitioners, who are the husband and son of late employee namely, Alka Rani, have been approaching the concerning authority of the University as well as the State Government by preferring representation, but to no avail.

The aforesaid unwarranted and inhuman approach cannot be appreciated. The post retiral dues of a retired employee should be paid with promptness if the necessary formalities have been carried out by the employee concerned inasmuch as the post retiral life of an employee is totally depend upon the dues which are paid in the name of post retiral dues. The legal impediment for the sake of creating legal impediment having no cogent reason can also not be accepted. The plight of the retired employee, who expired without getting her post retiral benefits, can be understood inasmuch as she died for want of appropriate funds to take care of herself properly.

Be that as it may, since the employee concerned has already died and her legal heirs are the petitioners before this Court are seeking payment of her post retiral dues as prayed in the writ petition, therefore, the writ petition is being decided finally at the admission stage directing the Principal Secretary, Department of Cultural Affairs, Government of U.P., Civil Secretariat, Lucknow as well as the Director, Department of Culture, Jawahar Bhawan, Lucknow to take appropriate steps so that the payment of post retiral dues of late Alka Rani could be made to her legal heirs, petitioners hereto, by the authority of Bhatkhande Music University, Lucknow. The State Government is granted one month time to take all required steps for making payment of post retiral dues as prayed in the writ petition from the date of presentation of a certified/ computerized copy of this order and as soon as the State Government takes appropriate steps, as required under law, the concerned authority of University shall make payment of post retiral dues to the petitioners with promptness, preferably, within a period of three weeks.

At the time of presentation of a certified/ computerized copy of this order, the liberty is given to the petitioners to prefer a fresh representation to the authorities concerned taking all pleas and grounds which are available with them annexing therewith the relevant documents in support of their claim along with copy of earlier representations so that the appropriate decision, as directed above, could be taken by the authorities concerned.

While preferring the representation, the petitioner may claim the interest on delayed payment of retiral dues and such claim of the petitioners shall be addressed, strictly in accordance with law.

In view of the aforesaid observations and directions, the writ petition stands disposed of finally."

3. Attention has been drawn of this Court towards the affidavit of compliance, so filed by opposite party no. 2 on 13.12.2021 wherein in Para 6 and 7 it has been categorically indicated that in terms of the order of the Writ Court, all the admissible dues have been paid to the petitioner and a sum of Rs. 22,61,463/- has been indicated with Cheque number. However, no specific reply has been given by filing objection to the affidavit of compliance, so filed by opposite party no. 2.

4. Though, Sri Sameer Kalia assisted by Ms. Asita Agarwal,

learned counsel for the petitioners has stated that still the University is saying that the petitioners are to be paid the benefit of 7th Pay Commission.

5. Be that as it may, if the University is saying to pay the benefit of 7th Pay Commission, the same shall be paid to the petitioners with expedition, preferably, within a period of two months from today. So far as the direction of Writ Court, affidavit of compliance of opposite party no. 2 and its reply are concerned, I find no any good reason to keep this contempt petition pending any longer.

6. Accordingly, the instant contempt petition is ***dismissed***.

7. Notices, if any, stand discharged.

8. However, it is always open for the petitioners to approach the Competent Authority/Competent Court of law, if the remaining grievance of the petitioners, as has been indicated in the affidavit of University, is not satisfied.

9. Since the contempt petition is dismissed, therefore the impleadment application bearing C.M. Application No. IA/16/2023 is also dismissed.

[Rajesh Singh Chauhan,J.]

Order Date :- 21.12.2023

kkv/