

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 1407 of 2017

Applicant :- Shiv Shanker Saxena

Opposite Party :- Shri Chanchal Kumar Tiwari Posted As
Prin.Secy.Panchayati Ra

Counsel for Applicant :- Sanjay Kumar Srivastava

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Sanjay Kumar Srivastava, learned counsel for the petitioner and Sri Ram Swaroop, learned Standing Counsel.
2. Sri Ram Swaroop has drawn attention of this Court towards the affidavit of compliance filed on 29.11.2017 showing the order dated 22nd of August, 2017 passed by the then Additional Chief Secretary, Department of Panchayati Raj, Uttar Pradesh directing therein that the petitioner be paid the arrears of salary for the suspension period i.e. from 01.08.2004 to 31.07.2006 and 23.07.2008 to 31.01.2010.
3. Pursuant to the aforesaid order, the Director, Panchayati Raj, U.P. has passed the order dated 4th of September, 2017, annexed as Annexure No. A-2 to the affidavit of compliance, directing the District Panchayat Raj Adhikari, Pratapgarh/Etawah for payment of arrears of salary/arrears to the petitioner w.e.f. 01.08.2004 to 31.07.2006 and w.e.f. 23.07.2008 to 31.01.2010 with expedition.
4. Sri Ram Swaroop has further drawn attention of this Court towards Annexure No. A-3 which is an order dated 8th of September, 2017 passed by Chief Finance and Accounts Officer, Panchayati Raj, Uttar Pradesh on behalf of Director, Panchayati Raj, Uttar Pradesh addressing to the District Panchayat Raj Adhikari, Pratapgarh, indicating therein the total arrears of subsistence allowance for the aforesaid period i.e. Rs. 5,99,811/-. Therefore, the aforesaid amount has to be paid to the petitioner forthwith.
5. Sri Sanjay Kumar Srivastava, learned counsel for the petitioner has stated that the aforesaid sum of Rs. 5,99,811/- has been paid to the petitioner but while making the aforesaid amount, the petitioner has not been given the arrears of salary providing him the benefit of ACP which has been indicating in Para 4 of the office memo dated 22nd of August, 2017 (supra). Therefore, some amount on the aforesaid head is still remaining to be paid to the petitioner.

6. Be that as it may, even if the submission of Sri Sanjay Kumar Srivastava is accepted that the petitioner has not been paid the arrears of salary granting him the benefit of ACP, inasmuch as the order to this effect was to be passed by the Director Panchayati Raj, Uttar Pradesh, the Writ Court vide order dated 09.02.2017 has not directed for making payment of the aforesaid amount as the direction was issued to pay the whole salary to the petitioner for the period of suspension as well as for the intervening period while he was in service during continuation of his service.

7. The aforesaid amount has been paid to the petitioner, however, if during the continuation of service, the petitioner was entitled to get the benefit of ACP and the same has not been given the petitioner till date, as submitted by Sri Sanjay Kumar Srivastava, the petitioner, who is a retired employee, may claim such benefit from the authority concerned by preferring a representation and it is needless to say that the aforesaid representation, if so preferred, may be decided strictly in accordance with law and if there is any admissible benefit in the head of the ACP, the same may be paid to the petitioner but no direction to that effect may be issued in the contempt petition.

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

9. Notices, if any, are discharged.

[Rajesh Singh Chauhan,J.]

Order Date :- 31.10.2023

kkv/