

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2107 of 2023

Applicant :- Abdul Qadir

Opposite Party :- Smt. Monika S. Garg, Addl. Chief Secy. / Prin. Secy. Minorities Welfare, Govt. Lko. And Others

Counsel for Applicant :- Mohiuddin Khan

Counsel for Opposite Party :- Diwakar Singh

Hon'ble Rajesh Singh Chauhan,J.

1. Heard.

2. This Court has passed the order dated 30th of October, 2023 which reads as under:

"1. Heard.

2. This Court has passed the order dated 03.10.2023 which reads as under:

"1. Heard Sri Mohiuddin Khan, learned counsel for the petitioner and Sri Diwakar Singh, learned counsel for opposite party no. 2.

2. This Court has passed the order dated 19.09.2023 which reads as under:

"1. Heard Sri Mohiuddin Khan, learned counsel for the petitioner, Sri Vinayak Saxena, learned Standing Counsel for the opposite parties and Sri Diwakar Singh for the opposite party no. 2.

2. Sri Khan has filed rejoinder affidavit to the counter affidavit filed by opposite party no. 1 and Sri Diwakar Singh has filed counter affidavit on behalf of opposite party no. 2, both the affidavits are taken on record.

3. Sri Khan prays for and is granted a week's time to file rejoinder affidavit to the counter affidavit filed by opposite party no. 2. In such rejoinder affidavit Sri Khan shall indicate specifically as to what amount / dues has been paid to the petitioner by the opposite parties till date and what amount / dues have not been paid to him.

4. List on 3.10.2023 within top ten cases."

3. In compliance of the aforesaid order, Sri Mohiuddin Khan has filed today the rejoinder affidavit alongwith an application for framing charges, the same is taken on record.

4. Attention has been drawn towards Annexure No. RA-2 which is a chart being prepared by the department itself indicating therein that a sum of Rs. 19,03,036/- were paid to the petitioner as his name has been indicated at Serial No. 14 in the aforesaid list. The aforesaid list has been prepared on 30.05.2022 as the Managing Director has made initial on such list. Further attention has been drawn towards RA-1 whereby the petitioner has indicated that till date nothing has been paid to the petitioner in respect of gratuity. He has been paid leave encashment on 18.05.2023 of Rs. 1,88,610/- and still Rs. 4,66,740/-, the amount of leave encashment, is outstanding. He has been paid EPF amount Rs. 5,87,528/- and still the balance amount is 11,617/- As per learned counsel for the petitioner, till date a sum of Rs. 37,06,255/- + 15 months EPF is still outstanding as on today.

5. Sri Mohiuddin Khan has submitted that the petitioner retired on 31.07.2020 after discharging his total 33 years of service. A period of more than 3 years have been passed after his retirement and he is running from pillar to post to get his admissible post-retiral dues.

6. Sri Mohiuddin Khan has further submitted that the petitioner has blood Cancer and to meet out the expenses, a substantial amount is needed for the treatment of Cancer and in the absence of ample fund, he is not able to get proper treatment of the blood Cancer.

7. Sri Diwakar Singh, learned counsel for opposite party no. 2 has stated that he may be given some reasonable time to seek specific instructions on the aforesaid rejoinder affidavit. He has also stated that the concerned authority is trying her level best to make payment of complete post-retiral dues to the petitioner at the earliest.

8. Having considered the arguments of learned counsel for the parties, list this case on 30th of October, 2023.

9. On or before 30th of October 2023, the opposite party 2, namely, Smt. J. Reebha, Managing Director, U.P. Alapsankhyak Vittiya Avam Vikas Nigam Ltd. (A Govt. of U.P. Undertaking), 7th Floor, Room No. 746, Jawahar Bhawan, Lucknow, shall file the affidavit of compliance, making compliance of the order of Writ Court in its letter and spirit, failing which she shall appear in person on the next date."

3. In compliance of the aforesaid order, opposite party 2, namely, Smt. J. Reebha, Managing Director, U.P. Alapsankhyak Vittiya Avam Vikas Nigam Ltd. (A Govt. of U.P. Undertaking), 7th Floor, Room No. 746, Jawahar Bhawan, Lucknow, is present in person. She has filed an application for dismissal of the contempt petition/discharge of contempt notice, the same is taken on record.

4. Admittedly, the petitioner has not been paid his entire dues, even then by means of this application, the dismissal of contempt petition has been prayed. This Court is failed to understand as to on what ground this contempt petition should be dismissed when, admittedly, the compliance of the order of Writ Court has not been done in its letter and spirit till date.

5. This Court in para 6 and 7 of the earlier order has clearly indicated that the petitioner is suffering from blood Cancer and to meet out the expenses, a substantial amount is needed but in the name of substantial amount only Rs. 2,05,667/- has been paid to the petitioner. Notably, the total fund which was available with the Corporation was divided amongst 26 claimants, some of them have approached the Court and most of them have not approached the Court. The aforesaid conduct of the department/corporation does not appear to be proper and the same is not a humanitarian approach, inasmuch as no special favour was extended to the petitioner who is a Cancer patient, despite the fact that this Court has specifically noticed this fact in its earlier order. The officer, who is present in Court, has got no plausible explanation to that effect, however, she has stated that she may be given some reasonable time so that she may pass an order for more payment to the petitioner in peculiar facts and circumstances of the case.

6. Considering the aforesaid request of the officer, who is present in person, list this case on 21.11.2023. On that date, the officer who is present in person today shall again appear in person alongwith the affidavit of compliance, making compliance of the order of Writ Court in its letter and spirit. "

3. Ms. Reebha John Benjamin, Managing Director, U.P. Alapsankhyak Vittiya Avam Vikas Nigam Ltd. (A Govt. of U.P. Undertaking), 7th Floor, Room No. 746, Jawahar Bhawan, Lucknow is present in person alongwith the affidavit of compliance, the same is taken on record.

4. Learned Standing Counsel has stated that the order of Writ Court has been complied with.

5. Learned counsel for the petitioner has also accepted that the order of Writ Court has been complied with, however, he has stated that he has been paid some lesser amount in the head of EPF and that lesser amount is Rs.11,617/-. However, learned Standing Counsel has stated that after proper calculation the appropriate amount has been paid to the petitioner.

6. Be that as it may, since the order of Writ Court has been complied with, therefore, there is no purpose to keep this contempt petition pending any longer.

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

8. Notice is discharged.

9. So far as the objection on the calculation of the amount is concerned, that cannot be adjudicated in the contempt petition and if the petitioner is aggrieved regarding calculation of the amount in question, he may approach the authority concerned.

[Rajesh Singh Chauhan,J.]

Order Date :- 21.11.2023

kkv/