

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2870 of 2023

Applicant :- Ram Sumer

Opposite Party :- Smt. Pooja Yadav, S.P., Lko.

Counsel for Applicant :- Deepak Dwivedi, Sheshnath Bhardwaj Advoc

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Sri S.N. Bhardwaj, learned counsel for the petitioner and Sri Mayanker Singh, learned Standing Counsel.

2. Sri Mayanker Singh has filed an application for dismissal of the contempt petition supported with an affidavit of Ms. Pooja Yadav, presently serving as Superintendent of Police, Railway, Lucknow, the same is taken on record.

3. Sri Mayanker Singh has stated that the petitioner has approached the Writ Court challenging the order of compulsory retirement dated 09.07.2019 passed under Rule 56 of the fundamental rules passed by Superintendent of Police, Railway, Lucknow in Writ Petition No. 28975 (SS) of 2019. The writ petition was allowed vide order dated 06.10.2021 setting aside the order of compulsory retirement directing the opposite party to reinstate the petitioner in service with all consequential benefits inclusive of past salary.

4. Sri Mayanker Singh has stated that since the petitioner was compulsorily retired on 09.07.2019 and no interim order was granted in favour of the petitioner, therefore, the petitioner was paid his retiral benefits in terms of the impugned order. The recital to this effect has been given in Para 8 and 9 to the affidavit which has been filed today, the same are being reproduced herein-below:

"8. That after retirement, the petitioner was paid an amount of Rs. 4,51,388 as gratuity, an amount of Rs. 7,10,175/- as commutation of pension and an amount of Rs. 3,84,160/- as leave encashment. Accordingly the petitioner was paid an amount of Rs. 15,45,723/- as due terminal benefits. Moreover, the petitioner was paid a monthly pension of Rs. 10,290/- and during intervening period from retirement he was paid an amount of Rs. 10,34,535/-. Accordingly, he was paid an amount of Rs. 25,80,258/-.

9. That while computing the arrears of salary of the petitioner from 09.07.2019 to 03.06.2022 it comes out to Rs. 14,35,756/- for which the petitioner was found to be entitled and if the said amount is deducted from the amount of Rs. 25,80,258/- then as on date of amount of Rs. 11,44,504/- is remaining with the petitioner which has been paid in excess. Therefore the arrears of salary payable to the petitioner in the aforesaid period has

been adjusted from the terminal benefits paid to the petitioner as aforesaid."

5. Therefore, Sri Mayanker Singh has stated that a sum of Rs. 11,44,502/- is an excess amount which would be recovered from the petitioner, inasmuch as he has already been reinstated in service, therefore, the order of Writ Court may be considered as if the same has been complied with in its letter and spirit.

6. Learned counsel for the petitioner has stated that he may be given some time to file reply to the aforesaid affidavit which was filed today by learned Standing Counsel.

7. Be that as it may, when in compliance of the order of Writ Court dated 06.10.2021, the petitioner has been reinstated and after calculation of his terminal benefits which ought to have been paid to the petitioner, a sum of Rs.11,44,502/-, which is an excess amount, has been paid to the petitioner, therefore, the contempt Court may not go into the aforesaid factual aspect. Undisputedly, the petitioner has been reinstated in service and has been paid all the consequential retiral benefits, therefore, nothing remains to be adjudicated in the present contempt petition, accordingly the same is ***dismissed***.

8. Notices, if any, are discharged.

9. However, it is always open for the petitioner to approach the competent court of law/authority, if he feels himself aggrieved from the calculation made by the authorities or for any factual and legal dispute.

[Rajesh Singh Chauhan,J.]

Order Date :- 30.10.2023

kkv/