

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3263 of 2023

Applicant :- Birendra Ram

Opposite Party :- Shri Rajshekhar, Director, Agriculture, Krishi Bhawan, Lko. And Others

Counsel for Applicant :- Ramesh Kumar Srivastava

Counsel for Opposite Party :- Jitendra Kumar Yadav, Pancham Srivastava

Hon'ble Rajesh Singh Chauhan, J.

1. Heard.

2. This Court has passed the order dated 31.10.2023, which reads as under:-

"1. Heard.

2. Sri Jitendra Kumar Yadav, Advocate has filed 'Vakalatnama' on behalf of opposite party no. 4, same is taken on record.

3. This Court has passed order dated 27.9.2023 which reads as under :

"Heard Sri Ramesh Kumar Srivastava, learned counsel for the petitioner.

Attention has been drawn towards an order of the Writ Court dated 11.08.2023 passed in Writ-A No.5711 of 2023 whereby an interim order has been issued in favour of the petitioner to the effect that till the next date of listing, the petitioner shall not be compelled to join at the place of his posting in pursuance of the impugned order. The petitioner has served the aforesaid order upon the authority concerned and the Appointing Authority of the petitioner, who is Additional Director (Administration) Agriculture Directorate, U.P., Lucknow, has issued a compliance order dated 24.08.2023 (Annexure No.15) directing the petitioner to the effect that the petitioner shall remain posted at Rahimabad and he shall draw his salary from such place. Thereafter, one Additional, Agriculture Director (Seed & Farm) U.P. has issued an order dated 06.09.2023 (Annexure No.17) directing the petitioner that he shall receive his salary from the office of the Deputy Director of Agriculture, Lucknow and the person who has been posted at Rehta shall draw his salary from that place only.

Sri Ramesh Kumar Srivastava, learned counsel for the petitioner has stated that the aforesaid order dated 06.09.2023 is contemptuous in nature inasmuch as the Additional Director Agriculture (Seed & Farm) U.P. is not an Appointing Authority of the petitioner but he interfered with the compliance of order being passed by the Writ Court, resultant thereof, the petitioner has not been given charge of Farm Manager, Rajkiya Usar Sudhar Prakshetra, Tilan-II, Rahimabad, District-Lucknow and he is not being paid salary from Block-Rehta.

Matter requires consideration.

Issue notice to the opposite party Nos.3 & 4 returnable at an early date, for which, necessary steps be taken within a week. Office to proceed accordingly.

List this case on 31.10.2023 within top ten cases.

On the next date, the opposite party No.3 i.e. Sri Arvind Kumar Singh, Additional Director Agriculture (Beej Evam Prakshetra), Krishi Bhawan, U.P., Lucknow shall appear in person to explain as to why he has flouted the directions being issued by the Writ Court by issuing an order dated 06.09.2023 (Annexure No.17) whereas the Appointing Authority has passed appropriate order on 24.08.2023 (Annexure No.15) in compliance of the order of the Writ Court."

4. In compliance of the order of this Court Sri Arvind Kumar Singh, Additional Director, Agriculture (Beej Evam Prakshetra), Krishi Bhawan, U.P., Lucknow is present in person.

5. The aforesaid officer has filed the affidavit of compliance along with application for discharge of contempt notice, same is taken on record.

6. In the aforesaid affidavit the officer has stated that the order of the writ court has been complied with and the petitioner has been permitted to discharge his duties at Rahimabad Kshetra Khand, Rehta and he has not been compelled to join at any other place pursuant to the order of this Court.

7. Sri Ramesh Kumar Srivastava, learned counsel for the petitioner has stated that after the order of the writ court dated 11.8.2023 having been passed the petitioner has not been paid salary nor he has been given any charge.

8. On being confronted the learned Addl. C.S.C. on the aforesaid submission of learned counsel for the petitioner, learned Addl. C.S.C. on the basis of instructions, so received from the authority, has stated that since the salary of the petitioner has to be withdrawn from Lucknow, therefore, he has not been paid salary.

9. Be that as it may, since the intent and purport of the interim order is that the petitioner be permitted to discharge his duties at the place he was functioning, ignoring the impugned order, and he be paid regular salary but the petitioner has not been paid salary after the order of the writ court dated 11.8.2023, therefore, it appears that the confusion, so created in making compliance of the order of the writ court is order dated 6.9.2023 passed by the officer who is present in person whereby it has been indicated that the petitioner shall discharge his duties at the place where he was discharging his duties ignoring the impugned order but he shall be paid his salary from Lucknow. Since the learned Addl. C.S.C. has stated that the officer shall modify the order dated 6.9.2023 and the petitioner shall be paid his entire salary within a week, therefore, the case is adjourned for today.

10. List again on 20.11.2023.

11. On or before 20.11.2023 the officer who is present in person shall file a fresh affidavit of compliance enclosing therewith the order, so passed in

terms of the aforesaid observation and also apprising the fact that as to whether the petitioner has been paid salary after passing the order of the writ court, failing which he shall again appear in person on the next date.

12. When the case is next listed name of Sri Jitendra Kumar Yadav shall be printed as counsel for the opposite party no. 4."

3. In compliance of the aforesaid order, Sri Ram Swaroop, learned Standing Counsel has filed affidavit of compliance, today in the Court, the same is taken on record. The deponent of the aforesaid affidavit of compliance is Sri Arvind Kumar Singh, who is presently posted as Additional Director, Seed & Farm, Lucknow.

4. Sri Ram Swaroop, learned Standing Counsel has drawn attention of this Court para-6 of the affidavit of compliance wherein it has been indicated that the petitioner has been permitted to discharge his duties on the vacant post of Plant/Store In-charge at Seed Processing Plant Rahimabad/ Katiyar and he is being paid his regular salary. The orders to that effect have been enclosed as Annexure Nos.1 & 2 to the affidavit of compliance.

5. However, Sri Ramesh Kumar Srivastava, learned counsel for the petitioner has stated that though the petitioner has been posted on the post which has been indicated in para-6 of the affidavit of compliance but the complete charge on that post has not been given.

6. Be that as it may, since the authorities have passed orders in compliance of order of the Writ Court and the petitioner has been permitted to discharge his duties on the post in question and the petitioner is being paid his regular salary, therefore, there is no purpose to keep this contempt petition pending any longer.

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

8. Notices, if any, stand discharged.

9. However, it is made clear that if the petitioner has not been given complete charge as stated above, the Competent Authority may examine the aforesaid aspect and if it is so needed, may pass appropriate order.

[Rajesh Singh Chauhan,J.]

Order Date :- 20.11.2023
Suresh/