

Court No. - 17

Case :- CONTEMPT APPLICATION (CIVIL) No. - 812 of 2019

Applicant :- Sanjay Kumar Singh

Opposite Party :- Ashok Kumar Singh Distt.Basic Education Officer Pratapgarh.

Counsel for Applicant :- Surendra Pratap Singh,Rajendra Pratap Singh

Counsel for Opposite Party :- Ran Vijay Singh,P.K. Singh Bisen

Hon'ble Rajeev Singh,J.

1. Heard.

2. On 31.05.2024 following order was passed:-

"1. Heard learned counsel for the applicant and learned Standing Counsel.

2. This application under Section 12 of the Contempt of Courts Act has been filed alleging wilful disobedience of the judgment and order dated 03.12.2018 passed on Writ Petition (S/S) No. 5118 of 2016.

3. Learned counsel for the applicant submits that the applicant and other teaching staff of the Institution in question challenged the orders dated 02.02.2016 and 24.02.2016 passed by the District Basic Education Officer, by which, the approval of their appointment dated 24.06.2015 was rejected. The said petition was allowed by the writ Court setting aside the aforesaid orders. It is further submitted that as the appointment letter was given to them on 26.06.2015 and the applicant along with others, was allowed to work since then, but the respondent-authorities are giving the salary w.e.f. 21.03.2023, from which date, the proposal of Committee of Management related to their appointment was approved. The aforesaid order of the writ Court was challenged in Special Appeal Nos. 213/2022, 215/2022, 216/2022 and 217/2022, which were also dismissed vide order dated 17.10.2022. Against the said order, Special Leave Petition No. 23 of 2023 was preferred before the Hon'ble Apex Court by the State, which was also dismissed on 30.01.2023.

In the meantime, contempt application was filed and notice was issued, but even after dismissal of the SLP, the salary is not being paid to the applicant. It is vehemently submitted by the learned counsel for the applicant that Finance & Accounts Officer also asked clarification from District Basic Education Officer vide letter dated 16.06.2023, but a misleading reply was given on 29.01.2024.

4. It is evident from the record that looking to the aforesaid facts and circumstances, on 29.05.2024, following order was passed.

"1. In pursuance of the earlier order, respondent nos. 2 and 4 are present before this Court.

2. Shri Ran Vijay Singh, learned counsel appearing for the respondents submits that in compliance of the directions of the writ Court, order was passed on 21.03.2023 and the proposal of appointment of the applicant and other teaching staff of the Institution in question dated 24.06.2015 was approved. While further approving that the applicant and other teaching staff are entitled for the salary, the Manager of the Institution in question was directed to proceed, accordingly.

3. On the other hand, learned counsel for the applicant submits that Finance & Accounts Officer, Pratapgarh wrote a letter dated 16.06.2023 to District Basic Education Officer, Pratapgarh with the request of clarifying the date, from which, the salary is to be paid to the applicant as well as other teaching staff, but the same is still not clarified by the respondent no. 2.

4. At this stage, Shri Ran Vijay Singh, learned counsel appearing for the respondents places a letter dated 29.01.2024 issued by respondent no. 2-Mr. Bhupendra Singh, District Basic Education Officer, Pratapgarh that the proposal of the appointment of the teaching staff dated 24.06.2015 forwarded by the Committee of Management was approved by the then District Basic Education Officer vide order dated 21.03.2023, in pursuance of the directions of the writ Court.

5. Admittedly, in the order dated 03.12.2018, the writ Court categorically observed that the appointment letter of the teaching staff of the Institution in question was issued on 26.06.2015 and they are working since then. However, it is undisputed to the respondent-officers that the Finance and Accounts Officer allowed the salary bill of the teaching staff from the date of aforesaid approval, i.e., 21.03.2023.

Moreover, it is very surprising that the clarification sought by the Finance & Accounts Officer vide letter dated 16.06.2023, has been given by the District Basic Education Officer on 29.01.2024, i.e., after lapse of six months, though both the Officers are working from the same campus. Indisputably, respondent no. 2, vide his letter dated 29.01.2024, reiterates the observation made by his successor vide letter dated 21.03.2023, for which, the Finance & Accounts Officer sought clarification.

6. However, on being asked the specific question to Mr. Bhupendra Singh, District Basic Education Officer, Pratapgarh, who is present before this Court, he accepts that the teaching staffs of the Institution in question including the applicant, are entitled for salary from the date of their appointment, i.e., 24.06.2015, as has been observed by the writ Court.

7. In view of the statement made by respondent no. 2-Mr. Bhupendra Singh, District Basic Education Officer, Pratapgarh, list this case on 31.05.2024.

8. In the meantime, respondent no. 2 shall file fresh affidavit of compliance, failing which, he shall again appear before this Court for framing of charges."

5. It is very much clear that the District Basic Education Officer-

respondent no. 2 is acting in a very unbecoming manner by not properly responding to the letter dated 16.06.2023 issued by Finance & Accounts Officer and sent a vague reply on 29.01.2024. Today again, neither any affidavit of compliance nor any affidavit related to the deferment of the case has been filed.

7. However, by placing a letter dated 29.05.2024 issued by respondent no. 2 addressed to Director, District Basic Education Officer, U.P., Lucknow with the request for clarification on the matter, an oral request has been made by Shri Ran Vijay Singh, learned counsel appearing for the respondents. Though, he does not dispute the fact that as per the Statute, District Basic Education Officer is the competent authority to approve the proposal of appointment of the Committee of Management.

8. In view of above, the oral request for deferment of the matter is allowed with cost of Rs.10,000/-, which shall be given by the respondent no. 2 from his salary to the applicant on the next date."

3. Shri Ran Vijay Singh, learned counsel for the respondents filed affidavit of compliance duly signed by Mr. Bhupendra Singh, District Basic Education Officer, District- Pratapgarh, which is taken on record. He also filed an application for deleting the cost which was ordered on the earlier date, which is also taken on record.

4. Shri Ran Vijay Submits that the order of the Writ Court has already been complied with by the respondent concerned by passing a formal order dated 16.07.2024.

5. It is evident from the affidavit of compliance that the order of the Writ Court has already been complied with.

Thus, the instant contempt application is **dismissed** by modifying the earlier order dated 31.05.2024 to the extent of deleting the cost which was awarded against the respondent no.2.

6. However, it is open to the applicant that in case the order dated 16.07.2024 passed by District Basic Education Officer is not complied with in letter and spirit, then he can file application for recall of the order which is being passed today in the present case.

Order Date :- 16.7.2024

Arpan