

Court No. - 5

Case :- WRIT - A No. - 7846 of 2025

Petitioner :- Pancham Ram Yadav

Respondent :- U.P. Cooperative Federation Ltd And Another

Counsel for Petitioner :- Ashutosh Ganguli

Counsel for Respondent :- Hridaya Narayan Mishra

Hon'ble Saurabh Shyam Shamsbery,J.

1. Heard Sri Ashutosh Ganguli, learned counsel for the petitioner and Sri Hridaya Narayan Mishra, learned Counsel for the respondents.
2. This is sixth round of litigation, however, till date, petitioner is facing departmental proceedings despite order passed by a Full Bench this Court, in facts of present case, departmental proceedings cannot be proceeded on ground of double jeopardy.
3. Learned counsel for the petitioner refers last order passed by his Court in Writ-A No.18891 of 2000 as well as orders passed in contempt proceedings which are reproduced below that said orders be complied within a period of 3 months. However, till date, it has not been complied with.

"Writ-A No.18891 of 2000

1. Heard Sri Chandan Kumar, learned counsel for the petitioner and Sri Abhishek Mishra, learned counsel for the respondents and perused the record.
3. By the order impugned dated 03.03.2000, two punishments were awarded against the petitioner, one in terms of termination from service and the other directing recovery of a sum of Rs.2,69,130.14/-.
4. The present writ petition was connected with Writ Petition No.31561 of 2000 (Ram Singh Vs. U.P. Cooperative Federation and others). The said writ petition was dismissed on merits by order dated 12.11.2007, however, the present petition, according to the learned counsel for the petitioner, could not be heard on merits and was decided as a connected matter without hearing

the petitioner.

5. Under the aforesaid circumstances, the petitioner filed recall application seeking recall of the judgment dated 12.11.2007, however, the recall application was rejected on 21.01.2008.

6. Two special appeals were filed, one by the petitioner, being Special Appeal No.435 of 2008, and the other by Ram Singh, being Special Appeal No.1264 of 2008.

7. During pendency of special appeals, the matter was referred to the Larger Bench of this Court and, in the meantime, a Division Bench of this Court at Lucknow decided the similar controversy in the case of Virenda Kumar Gupta Vs. State of U.P. and others, 2015 (7) ADJ 19 (DB) (LB) interpreting the concerned provisions of the Act and Regulations.

8. Later on, a Full Bench of this Court decided the questions of law laid down in the judgment of Virendra Kumar Gupta (supra) and another case, namely, Satya Narain Mishra and held that the view taken by the Court in the case of Virendra Kumar Gupta (supra) lays down correct law and that view taken in the case of Satya Narain Mishra is not correct position of law.

9. The Full Bench thereafter referred the matter to the Special Appellate Bench which has decided the petitioner's Special Appeal No.435 of 2008 by judgment dated 04.12.2019 whereby the appeal has been allowed and the order of the Single Judge has been set aside.

10. The writ petition has been restored for being decided by the Single Judge and, hence, the matter has come before this Court for final disposal.

11. Learned counsel for the petitioner submits that in view of the law settled by the Division Bench, two punishments cannot be awarded to an employee of Cooperative Federation and, therefore, the order impugned is liable to be set aside.

12. Sri Abhishek Mishra, learned counsel for the Federation submits that though it is correct that two punishments cannot be awarded, in any case, one punishment would stand nullified, however, it cannot be said that other punishment would also stand washed away. He, placing reliance upon a recent order of this Court dated 07.02.2023 passed in Writ-A No.5588 of 2016 (Kamlesh Kumar Chakarabarti Vs. State of U.P. through Principal Secretary

Co-operative Government of U.P. and others), submits that under exactly identical circumstances, this Court has, after quashing the order impugned, whereby three punishments were awarded to the concerned petitioner, remanded the matter to the Disciplinary Authority to take a fresh decision in accordance with law. He, therefore, submits that the matter may be remitted to the Disciplinary Authority for passing of fresh order.

13. Sri Chandan Kumar submits that any order of punishment is, per se, illegal inasmuch allegation against the petitioner was that he, being a Storekeeper, facilitated theft of sugar bags and in relation thereto, he himself lodged a first information report pursuant where to, a criminal case is still pending. He further submits that police recovered all the stolen sugar bags and, therefore, no financial loss was caused to the Federation. He further submits that in pursuance of the unamended and amended provisions of law, no departmental proceedings could continue as a criminal case in relation to the same incident was already pending. He submits that Federation also made a claim before the Insurance Company and, hence, in the totality of the facts and circumstances of the case awarding punishment to the petitioner would be inappropriate and illegal.

14. Sri Abhishek Mishra submits that all the bags were not recovered and even otherwise, considering the grave charges against the petitioner at least one punishment is liable to be maintained.

15. Having heard the learned counsel for the parties, since the impugned order was passed 23 years ago and certain developments have taken place not only in criminal proceedings but also in terms of insurance claim, result whereof is not known to this Court, and once this Court satisfied that awarding two punishments is contrary to law declared by the Full Bench, as referred to herein above, the impugned order cannot sustain.

16. At the same time, fresh order is required to be passed in the case, however, without reopening the inquiry proceedings, as during pendency of the writ petition, the petitioner has already attained the age of superannuation and under the law no fresh inquiry is permissible after retirement of an employee.

17. The writ petition succeeds and is allowed.

18. The order impugned dated 03.03.2000 is quashed.

19. The matter is remitted to the Disciplinary Authority to pass a fresh order in accordance with law but he shall not reopen the inquiry proceedings and shall pass the order on the basis of developments that have taken place before and during the pendency of the writ petition and after providing full opportunity of hearing to the petitioner in the light of amended and unamended law.

20. Fresh order shall be passed by the authority before 28.02.2024 and its copy shall be served upon the petitioner immediately thereafter by registered post.

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Case :- CONTEMPT APPLICATION (CIVIL) No. - 3366 of 2024

Heard learned counsel for the applicant.

The present contempt application has been filed under Section 12 of the Contempt of Courts Act for punishing the Opposite Party for willful disobedience of the judgment and order dated 12.10.2023 passed by this Court in Writ Petition No.18891 of 2000.

It is contended that applicant had filed aforesaid writ, which was disposed of vide order dated 12.10.2023. Copy of the said order was served to the opposite party on 24.11.2023, but the said direction has not been complied with by the opposite party till date.

Prima facie, a case has been made out for punishing the opposite party for willful disobedience of the judgment and order passed in the aforesaid writ petition.

However, no notice is issued to the opposite party at this stage. The opposite party is granted three months? further time to comply with the order dated 12.10.2023 passed by this Court in Writ Petition No.18891 of 2000 from the date of production of a certified copy of this order.

The applicant shall supply a duly stamped registered envelope addressed to the opposite party and another self-addressed envelope to the office within one week from today. The office shall send a copy of this order along with the self-addressed envelope of the applicant with a copy of contempt application to the opposite party within one week thereafter and keep a record thereof.

The opposite party shall comply with the directions of the writ court and intimate the applicant the order through the self-addressed envelop within a week thereafter.

In case, the opposite party does not comply with the order, it would be open to the applicant to approach this court again.

With the aforesaid observations, this application is finally disposed of at this stage."

4. Learned counsel for the petitioner submits that a reply was sought by the petitioner to the show cause notice issued to him on 6.9.2024 to which he has already replied and has appeared in person subsequent to other shows cause notice issued on 11.9.2024.

5. Learned Counsel for the respondents submits that on basis of reply and oral hearing, final decision will be taken within one week. It is made clear that no further time will be granted to the respondents. It is also directed that respondents are under legal obligation to comply the orders passed by this Court.

6. It is also necessary to observe that in case petitioner is constrained to rush to this Court again, it could be a ground to take action against concerned respondent.

7. With aforesaid direction, this writ petition is disposed of.

Order Date :- 7.7.2025

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