

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.230 of 2015

In

Civil Writ Jurisdiction Case No. 12827 of 2013

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Geeta Devi wife of late Suhsil Kumar, resident of Company Bag, Danapur
Cantt, P.S. Danapur, District- Patna.

.... Petitioner/s

Versus

1. Shri V. Somasundarah son of not known, Principal Secretary, Ministry of Civil Aviation, Government of India, New Delhi.
2. Shri S. Bhadhuri son of not known, Regional Executive Director, Airport Authority of India, Neetaji Subhash Chandra Airport, Kolkata.
3. Shri Sonu Marandi son of not known, Airport Director, Airport Authority of India, Jai Prakash Narayan International Airport, Patna.
4. Union of India through the Principal Secretary, Ministry of Civil Aviation, Government of India, New Delhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashish Giri

For the Respondent/s : Mr. Sanjay Kumar(Asg)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

3 24-06-2015 This contempt application has been filed for initiating the contempt proceedings against the opposite parties for disobedience of the order of this Court dated 21.04.2014 passed in C.W.J.C.No. 12827 of 2013.

The operative portion of the order dated 21.04.2014 reads as follows:

“The purpose of scheme for compassionate appointment is to relieve a family member of the government servant dying in harness from immediate distress which the family is compelled to suffer consequent upon the death of such employee.

Admittedly, the petitioner's husband is missing since 1997. It is too long a period now for the petitioner to wait further for compassionate appointment. The respondents ought to have taken a final decision in this regard in terms of



the scheme framed for that purpose. Since a final decision had admittedly not been taken by the respondents I dispose of this application with a direction to the Secretary, Ministry of Civil Aviation, Government of India, New Delhi to take a final decision on the petitioner's claim for compassionate appointment within a period of six months from the date of receipt/production of a copy of this order. While taking any decision the respondent- Secretary, Ministry of Civil Aviation, New Delhi will keep in mind the provisions of Clause 7 (e) (f) of the scheme brought on record by the respondent as Annexure-A. The respondent No.1 shall certainly be required to consider whether the petitioner's claim can be rejected on the ground that she received a sum of Rs. 3,03,776/- as terminal benefits as no such provisions has been pointed out by the learned counsel for the Union of India under the Scheme which according to Union of India is applicable to the employees of Airport Authority of India. If the petitioner's claim does not find favour with the Secretary, Ministry of Civil Aviation, New Delhi, he will be required to pass a reasoned order."

By way of supplementary affidavit, learned counsel for the petitioner has brought on record the order dated 05.12.2014 passed by the Secretary, Government of India, Ministry of Civil Aviation, New Delhi, which has been passed in compliance of the order of this Court dated 21.04.2014, which reads as follows:

"2. AAI has intimated that consequent upon the restructuring of Delhi & Mumbai airports and handing over the same to joint Venture Companies (JVCs), a large number of employees had reverted back to AAI and it has to be ensured that all such employees are gainfully deployed at

other establishments of AAI . In view of this, no Employment Assistance Committee meeting has been conducted since September, 2008. Thus, no recruitment has been done after 2008 on compassionate ground.

3. It is, also intimated that an amount of Rs. 303776/- was paid to you by AAI towards terminal benefits. Moreover, Hon'ble High Court has also directed in its judgment dated 21.04.2014 that Ministry shall consider the amount of terminal benefits while considering her claim. In this regard, recently, the Supreme Court of India has ruled in the case of UOI & Anr Vs. Shashank Goswami & anr. (Civil Appeal Nos. 6224 of 2008) that if the compensation on death of an employee of his/her family is five lakhs in case of Group B, three lakhs in case of Group C and two lakhs in case of Group D then no case is made out for appointment on compassionate grounds.

4. In view of above, it is not possible to appoint you in AAI on compassionate ground.”

Mr. Ashish Giri, learned counsel for the petitioner has vehemently submitted that the decision of the Secretary, Ministry of Civil Aviation, New Delhi, as contained in the letter dated 05.12.2014 is not valid compliance of the order dated 21.04.2014 passed by this Court in CWJC No. 12827 of 2013. It has been contended that the opposite party has merely completed of taking a decision in the name of compliance of the order of this Court. It has further been submitted that the order of the Secretary, Ministry of Civil Aviation, New Delhi cannot be said to be speaking one. It is also submitted that there is no discussion on the issues noted by this Court in the order

dated 21.04.2014 as no provision could be pointed out that the scheme applicable to the employees of Airport Authority of India is applicable to the employees of Union of India also. He has relied upon a decision of Supreme Court in the case reported in 2014(3) PLJR 111 (Bihar State Government Secondary School Teachers Association –v- Ashok Kumar Sinha & ors), in support of his submission that even in a contempt jurisdiction, this Court can go into the correctness of the order passed in compliance of the order of this Court.

I do not find force in the submissions of learned counsel for the petitioner as I am of the view that the said letter dated 05.12.2014 issued by the Secretary, Ministry of Civil Aviation, Government of India, cannot be said to be non speaking one and, therefore, in violation of the order of this Court dated 21.04.2014. If the petitioner is not satisfied with the said communication dated 05.12.2014, it is always open to him to question the legality of the said communication by approaching the appropriate forum, in appropriate proceeding.

With the aforesaid observation this application stands dismissed.

(Chakradhari Sharan Singh, J)

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