

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Con.Case(C).No. 1410 of 2014 (S)

AGAINST THE JUDGMENT IN WP(C) 10452/2013 of HIGH COURT OF KERALA DATED
11-04-2013

PETITIONER(S) :

G.SASIDHARAN PILLAI AGED 54 YEARSS/O GOPALA PILLAI,
EX-GS-161469F-SUPBR-2, RESIDING AT SREE SAILAM
POTHADI P.O., PERINGANAD, ADOOR (VIA)
PATHANAMTHITTA - 691 528.

BY ADVS.SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN

RESPONDENTS :

1. LT.GEN.A T PATNAIK
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONERS
DIRECTOR GENERAL BORDER ROADS SEMA SADAK BHAWAN
RING ROAD DELHI CANTT, NEW DELHI 110010.
2. BRIG.PANCHNATHAN
AGE AND FATHER'S NAME NOT
KNOWN TO THE PETITIONERS
CHIEF ENGINEER, PROJECT DANTAK, C/O.99 APO.

R1-R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES

- ANNEXURE I TRUE COPY OF THE JUDGMENT DATED 11.4.2013 IN W.P. (C) NO.10452/2013 OF THIS HON'BLE COURT.
- ANNEXURE II TRUE COPY OF THE CALCULATION SHEET PROVIDED TO THE PETITIONER BY THE SECOND RESPONDENT.

RESPONDENTS' ANNEXURES

- ANNEXURE R1 (A) TRUE COPY OF THE LETTER No.BRDB/03/191/2007/GEI DATED 25.02.2009.
- ANNEXURE R1 (B) TRUE COPY OF PAY FIXATION OF THE PETITIONER UNDER RPR 1997 DATED 26.09.2013.
- ANNEXURE R1 (C) TRUE COPY OF PAY FIXATION OF THE PETITIONER UNDER 6TH CPC 2008 DATED 26.09.2013.
- ANNEXURE R1 (D) TRUE COPY OF PAY FIXATION UNDER MACP-I DATED 31.07.2014.
- ANNEXURE R1 (E) TRUE COPY OF PAY FIXATION UNDER MACP-II DATED 31.07.2014.
- ANNEXURE R1 (F) TRUE COPY OF THE CALCULATION SHEET FOR PAYMENT OF ARREARS IN RESPECT OF THE PETITIONER.
- ANNEXURE R1 (G) TRUE COPY OF THE PAYMENT AUTHORITY NO.48407 DATED 02.01.2015 ISSUED BY THE PRINCIPAL ACCOUNTS OFFICER (GREF)
- ANNEXURE R1 (H) TRUE COPY OF CORRIGENDUM PPO NO.C/GREF/10831/2014 DATED 02 JAN 2015 ISSUED FROM THE PRINCIPAL CDA (PENSIONS) ALLAHABAD.

TRUE COPY

P.A. TO JUDGE.

kp/-

P.N.RAVINDRAN , J.

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Contempt Case (C) No.1410 of 2014

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Dated this the 23rd day of July, 2015

JUDGMENT

This contempt case is filed alleging that the respondents herein have wilfully disobeyed Annexure I judgment delivered by me on 11.4.2013 in W.P.(C).No.10452 of 2013. By that judgment, I allowed the writ petition filed by the petitioner herein and directed the respondents in the writ petition to re-fix the pay of the petitioner in the scale of pay of ₹5000-8000 with effect from 01.01.1996 and in the pay band ₹9,300-34800 with effect from 01.01.2006. I further directed that the petitioner's pay shall be fixed and arrears of salary and allowances disbursed within three months from the date on which the petitioner produces a certified copy of the judgment before the third respondent, viz; the Pay and Accounts Officer, GREF Centre, Pune. The main allegation in the instant contempt case is that unmindful of the direction issued by this court, arrears of pay and allowances was disbursed only with effect from 1.1.2006, though pay was re-fixed in the scale of ₹5,000-8000 with effect from 1.1.1996 and in the pay band ₹9,300-34800 with effect from 01.01.2006.

2. An affidavit dated 3.3.2015 has been filed on behalf of the respondents. The said affidavit was filed on 20.5.2015 and a copy thereof was served on the learned counsel appearing for the petitioner on the same day. The deponent of the affidavit has in paragraphs 4 to 7 thereof averred as follows:

"4. It is respectfully submitted that as per 6th CPC recommendations as accepted by Government of India, all JE (Civ) of GREF are placed in the pay scale of Rs.5000-8000 with effect from 01 Jan 1996 for the purpose of pay fixation only and financial benefit will accrue with effect from 01 Jan 2006. Accordingly pay of the Petitioner has been fixed in a pay scale of Rs.5000-8000 with effect from 01 Jan 1996 by granting him annual increment up to 31 Dec 2005 as per Government of India Ministry of Shipping, Road Transport & Highways letter No.BRDB/03/191/2007/GEI dated 25 Feb 2009. A true copy of the letter No.BRDB/03/191/2007/GEI dated 25 Feb 2009 is produced herewith and marked as **Annexure R1(a)**.

5. It is submitted that the Petitioner's pay has been re-fixed in Pay Band of PB-2 Rs.9300-34800 with Grade Pay of Rs.4200.00 with effect from 01.01.2006. A true copy of the Pay fixations of Petitioner under RPR 1997 dated 26.09.2013, under 6th CPC 2008 dated 26.09.2013, under MACP-I dated 31.07.2014 and under MACP-II dated 31.07.2014 are produced herewith and marked as **Annexures R1(b), R1(c), R1(d) and R1(e)** respectively.

6. It is respectfully submitted that arrears accrued to the petitioner with effect from 01.01.2006 to the date of his retirement with benefit of MACP-I and MACP-II was Rs.1,31,398/- (One lakh Thirty One Thousand Three Hundred and Ninety Eight only). A true copy of the calculation sheet for payment of Arrears is produced herewith and marked as **Annexure R1(f)**. A true copy of the payment authority No.48407 dated 02.01.2015, issued by the Principal Accounts Officer (GREF) for payment of arrears, is produced herewith and marked as **Annexure R1(g)**. Accordingly, payment has been made to the Petitioner through RTGS.

7. It is most respectfully submitted that the pension of the Petitioner has also been revised based on last pay after extending all benefits admissible to him and a

Corrigendum PPO was forwarded to Centralized Pension Processing Centre for payment of revised pension. Copy of corrigendum PPO No. C/GREF/10831/2014 dated 02 Jan 2015 is enclosed and marked as **Annexure R1(h).**"

3. The substance of the averments in the aforesaid affidavit is to the effect that though as per the recommendations of the 6th Central Pay Revision Commission which was accepted by the Government of India, persons like the petitioners are placed in the pay scale of ₹5000-8000 with effect from 1.1.1996, such fixation is for the purpose of pay fixation only and financial benefits will accrue only with effect from 1.1.2006. Reliance is placed on Annexure R1(a) letter sent by the Under Secretary to Government of India, Ministry of Shipping, Road Transport & Highways and Border Roads Development Board to the Director General, Border Roads to that effect. The deponent has also averred that the pay of the petitioner was re-fixed in the pay band of ₹9300-34800 with grade pay of ₹4200 with effect from 01.01.2006 and that payment has also been made. He has further averred that the pension of the petitioner was also revised based on the last pay drawn by him after re-fixing his pay in the aforesaid band.

4. Though more than two months have passed after a copy of the counter affidavit filed on behalf of the respondents was served on the petitioner's counsel, the petitioner has not so far filed a reply affidavit denying and disputing the aforesaid averments. It is evident from Annexure R1(a) letter dated 25.02.2009 which preceded the

judgment of this court, that financial benefits will accrue upon the re-fixation of pay only with effect from 1.1.2006 and that placement in the scale of pay of ₹5000-8000 is only for the purpose of pay fixation and that no financial benefits shall accrue. This court has not in the judgment disposing of the writ petition directed that arrears of pay should be disbursed with effect from 1.1.1996 after placement in the scale of pay of ₹5000-8000. Learned counsel for the petitioner was also not in a position to bring to my notice any such direction in the judgment delivered by the learned single Judge of the High Court of Guahati in W.P.(C) No.51 of 2009, the judgment of the Division Bench of the Guahati High Court in W.A.19 of 2010 or the judgment of the Apex Court in S.L.P(C)No.14236 of 2012. The petitioner has also not placed on record any material to show that persons similarly placed have been given arrears of pay in the scale of pay of ₹5000-8000 with effect from 1.1.1996.

In such circumstances, I am not persuaded to hold that respondents have wilfully disobeyed the directions issued by this court in Annexure I judgment. The contempt case fails and it is accordingly dismissed.

**P.N.RAVINDRAN
JUDGE**