

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1398 of 2014

In

Civil Writ Jurisdiction Case No. 13861 of 2005

Sushil Kumar Tripathi @ Sushil Kumar Tripathy S/O Late Jitendra Prasad Tripathi, resident of Village Pharendy, P.S. Sonauli, District Maharajganj (U.P.) at present Address 195-Z, Pragati Vihar, New Dharampur, P.S. Shahpur, District Gorakhpur (U.P.).

.... Petitioner/s

Versus

1. The Union of India through Mr. Anil Goswami, father's name not known, Secretary, Ministry of Home Affairs, New Delhi-110001.
2. Mr. Dilip Trivedi father's name not known, the Director General, C.R.P.F., C.G.O. Complex, Lodi Road, New Delhi.
3. Mr. Vivek Sahaya, father's name not known, the Inspector General, C.R.P.F., Bihar Sector, Patna-14.
4. Md. H. Amed, father's name not known, the D.I.G., C.R.P.F., Bihar Sector, Bailey Road, Patna-14.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Parwez Khan, Advocate

For the Respondent/s : Mr. Anshuman Singh, CGC, UOI

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 03-02-2016

The petitioner has filed the present MJC application raising a grievance that the opposite parties herein, who were the respondents in the main writ petition, have willfully violated and deliberately disobeyed the judgment/order dated 08.02.2013 passed in CWJC No. 13861 of 2005, which has been brought on the record as Annexure-1 to the present MJC application, and therefore, they are liable to be punished under The Contempt of Courts Act, 1971.

2. Earlier a show cause was filed on behalf of the opposite parties on 15th July, 2014 taking a plea that the order of the writ court has been complied with in view of the order dated 25th February, 2014 passed by the Inspector General of Police, North East Sector, CRPF, Shillong (Meghalaya). The aforesaid

order dated 25th February, 2014 was brought on the record as Annexure-C to the aforesaid show cause.

3. When the matter was taken up for consideration earlier, a grievance was raised on behalf of the petitioner that though by judgment/order dated 08.02.2013 passed in CWJC 13861 of 2005 (Annexure-1), the impugned original order of punishment dated 18th September, 2003 (Annexure-7), appellate order dated 13.01.2004 (Annexure-9) and revisional order dated 25th January, 2005 (Annexure-11) were set aside and quashed by this Court and the matter was remitted back to the respondent Inspector General of Police for passing fresh order, yet according to the petitioner, the opposite parties herein, who were respondents in the writ petition, have not paid his salary for the interregnum period, rather by order dated 16.07.2013 issued by the Commandant, 36 Battalion, CRPF, the intervening period of 3717 days have been regularised on the basis of 'no work no pay'. It was contended by the learned counsel for the petitioner that in view of the order passed by the writ court, the petitioner was entitled to the salary for the aforesaid period also.

4. The learned counsel appearing on behalf of the petitioner submits that the petitioner had filed a separate writ petition before this Court giving rise to CWJC No. 1098 of 2014 challenging the validity of the aforesaid order dated 16.07.2013 passed by the Commandant, 36 Battalion, CRPF, but a co-ordinate Bench of this Court was of the opinion that the dispute has already been adjudicated upon in view of the order date 08.02.2013 (Annexure-1) passed by this Court, therefore, there was no need for adjudicating the matter once again and the writ petitioner was granted liberty to agitate the matter regarding non-

implementation of the earlier Court's order in an appropriate proceeding.

5. Today, when the matter has been taken up for consideration, a supplementary show cause has been filed on behalf of the opposite parties. The learned Central Government counsel appearing on behalf of the opposite parties submits that in view of the order dated 25th February, 2014 passed by the Inspector General of Police, North East Sector, CRPF, Shillong (Meghalaya), the order of the writ court has been complied with. According to him, if the petitioner has, at all, any grievance against the order dated 16.07.2013, which has been passed by the Commandant, CRPF in the light of the order/communication made by the Inspector General of Police, he may approach the authority concerned.

6. However, after having heard the parties and on consideration of the materials available on the record, this Court finds that in the light of the judgment/order dated 08.02.2013 passed in CWJC No. 13861 of 2005 (Annexure-1), the Inspector General of Police has passed his final order dated 25th February, 2014 giving warning to the petitioner only and other punishments were set aside. This Court further finds that before passing final order on 25th February, 2014, the Commandant, 36 Battalion, CRPF had already passed order and had issued its office order dated 16.07.2013 regularising the intervening period as 'no work no pay'. In the considered opinion of this Court, once the matter was remitted back to the Inspector General of Police by the writ court by order dated 08.02.2013, then the Commandant, 36 Battalion, CRPF could not have passed/issued the aforesaid order dated 16.07.2013 before passing a fresh order by the Inspector

General of Police on 25.02.2014. It appears that the Commandant, 36 Battalion, CRPF has tried to overreach the authority of the Inspector General of Police by passing the aforesaid order dated 16.07.2013 before the matter was finally disposed of by order dated 25th February, 2014.

7. In above view of the matter, the aforesaid order dated 16.07.2013 passed by the Commandant, 36 Battalion, CRPF is hereby set aside and the matter is remitted back once again to the Inspector General of Police, North East Sector, CRPF, Shillong (Meghalaya) with a direction to consider and decide the claims of the petitioner for payment of salary for the intervening period of 3717 days, during which the petitioner remained out of service in view of the aforesaid order of punishment passed by the competent authority, which was ultimately set aside by this Court and on remand, the Inspector General of Police by order dated 25.02.2014 gave only warning to the petitioner.

8. With the aforesaid observations and directions, the present MJC application stands finally disposed of.

(Birendra Prasad Verma, J)

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