

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 267 of 2016

Sirottam Prasad Patel S/o Late Hetram Patel, Aged About 70 Years R/o Khagesh Bhawan, Masta Gali, Darogapara, P.S. Kotwali, District Raigarh, Chhattisgarh

---- Petitioner

Versus

1. Hemant Kumar Kutare , Engineer-In-Chief, Department Of Water Resources, Mahanadi Bhavan, Naya Raipur, District Raipur, Chhattisgarh
2. A.K. Dubey, Chief Engineer, Minimata (Hasdeo) Bango Project, Bilaspur, Chhattisgarh
3. S.N. Singh, Superintending Engineer, Minimata (Hasdeo) Bango Circle, Kharsiya, District Raigarh, Chhattisgarh
4. H.N.Goyal, Executive Engineer, Minimata Bango Canal Division No.5, Kharsiya, District Raigarh, Chhattisgarh(Contemnors)

---- Respondents

Shri Adil Minhaj, counsel for the petitioner/s.
Shri Vineet Kumar Pandey, counsel for the respondent.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/01/2017

Learned counsel for the petitioner submits that the respondents have acted in willful disobedience of order of this Court in not making payment of arrears of pension and gratuity as per order dated 03/01/2013 passed in WP No.293/2005.

2. It is submitted that the petitioner has not been paid interest on arrears of pension and on the contrary, recovery was initiated against him which has been challenged in a separate writ petition, in which, interim order was also passed. He submits that in compliance of the order passed on 03/01/2013, it was incumbent on the part of the respondents to make payment of interest on arrears of pension but the respondents have completely misconstrued the order

dated 26/09/2014 passed by this Court in MCC No.339/2014 which was passed on petitioner's application seeking clarification and modification for specifying the rate of interest regarding arrears of pension and gratuity and not in respect of any other aspect. The order, therefore, ought to be construed and implemented in that context only but the respondents have denied the petitioner, interest on arrears of pension.

3. On the other hand, learned counsel for the respondent submits that the respondents have not acted in willful disobedience of the order of the Court. After the order of the Court, the respondents examined the matter, both in the writ petition and MCC and though with some delay, to the best of their ability and understanding, the petitioner has been paid substantial amount of lakhs towards arrears of pay, leave encashment, gratuity etc. It is further submitted that earlier, interest of Rs.4,70,100/- was paid on arrears of salary but later on, it was found that it was wrongly paid and there was no direction for payment of interest on arrears of salary, the amount of interest payable on gratuity being Rs.1,48,675/- was adjusted and for balance of amount, recovery was ordered.

4. After hearing learned counsel for the parties, it appears that the respondents have proceeded to comply with the directions of this Court issued from time to time, according to their understanding. A very substantial amount has already been paid to the petitioner.

There is a dispute whether the petitioner was entitled to payment of interest on arrears of salary as also whether the order passed by this Court in MCC No.339/14 on 26/09/2014 should be construed as keeping intact petitioner's entitlement to get interest on arrears of pension or he is entitled to only interest of gratuity and leave encashment. This is, therefore, the *bonafide* act of the respondents and irrespective of the correctness of that decision, I am not inclined to accept the submission of learned counsel for the petitioner that this was done with an intention to flout the order of the Court.

5. The contempt petition is therefore dismissed. However, dismissal of this petition shall have no effect on the decision in the pending writ petition.

Sd/-
(Manindra Mohan Shrivastava)
Judge