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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCP-1654-2016

Date of decision: 29.10.2019

RANBIR SINGH AND ORS

.. PETITIONERS

VERSUS

SUDHIR RAJPAL

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sunil Nehra, Advocate
for the petitioners.

Mr. Lokesh Sinhal, Advocate
for the respondent.

AVNEESH JHINGAN, J. (Oral)

The petitioners filed writ petition with a prayer for release of installments of Dearness Allowance (DA) after 01.07.2003 and for granting of benefit of merger of 50% of DA with basic pay and further for directions to the respondents to grant second higher standard scale/Assured Career Progression Scheme. The petition was allowed on 03.04.2008, the relevant portion of the judgment has reproduced below:-

“The Corporation could not curtail the allowances of its employees. Moreover, the Board of Directors of the Corporation on March 19, 2007, resolved not to allow to its employees the benefit of Dearness Allowance instalments from a retrospective date i.e July 01, 2003. It is well-settled that reduction in remuneration with retrospective effect cannot be done. However, the Corporation will be within its rights to withhold the benefit of Dearness Allowance installments from March 19, 2007 i.e the date of passing the Resolution.”

For the aforesaid reasons, this writ petition is allowed and the Corporation is directed to release Dearness Allowance

and other allowances of the petitioner after July 01, 2003 and allow 50 % merger of Dearness Allowance with Basic Pay to the petitioners. The Corporation is further directed to fix the pay of the petitioners in 1st and 2nd A.C.P scale by counting their service of 10 and 20 years as per the A.C.P. Rules of 1998. It is made clear that the dues of the petitioners will be paid by the Corporation within three months from the date of receipt of a copy of this order failing which they shall be entitled to interest at the rate of nine per cent per annum.”

(emphasis)

The matter was challenged by filing SLP by the respondents, same was dismissed on 24.04.2017. However, there was modification with regard to the rate of interest in case of non-compliance within the period so specified.

The contempt petition has been filed pleading wilful disobedience of the directions of this Court.

Pursuant to notice of motion, replies have been filed.

Learned counsel for the petitioners states that in view of the reply filed, basically four grievances survives, these are the followings:-

- i. DA has not been released after 19.03.2007.
- ii. Interest on leave encashment and gratuity has not been paid.
- iii. Employees Provident Fund (EPF) of employees' share has not been deposited.
- iv. The revised pay from 01.01.2006 has not been fixed.

Learned counsel for the petitioners submits that with regard to the grievances No. ii to iv mentioned above, liberty be granted to avail remedies in accordance with law, however, with regard to the grievance No. i, the respondents be directed to pass a reasoned order after

providing an opportunity of hearing to the petitioners.

Learned counsel for the respondent placed reliance on the underlined portion of the judgment quoted above and states that the right of the respondent was protected to withhold the DA installment from 19.03.2007 and hence, the same has not been granted.

The issue with regard to the correctness of withholding the DA from 19.03.2007 cannot be gone in the present contempt proceedings. However, the respondent is hereby directed to pass a reasoned order in accordance with law on the said issue after providing an opportunity of hearing to the petitioners. It is expected that needful will be done expeditiously.

The contempt petition is disposed of with liberty as prayed for.

However, it is clarified that in case, there is any grievance with regard to the order passed by the respondent, the petitioners would be at liberty to avail remedies in accordance with law.

Rule issued against the respondent is discharged.

29th October, 2019
shabha

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*