

COCN No. 1962 of 2008 (O&M)
DECIDED ON: NOVEMBER 21, 2019

G.D. GUPTA

.....PETITIONER

VERSUS

SH. R.N. PRASHAR AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ashok Gupta, Advocate
for the petitioner.

Mr. Gagandeep Singh Wasu, Addl. AG, Haryana.

AVNEESH JHINGAN, J (ORAL)

The present contempt petition under Section 10 and 12 of the Contempt of Courts Act, 1971 is filed pleading wilful disobedience of the order dated 22.01.2008 passed in CWP No. 15170 of 2006.

The grievance raised in the present petition is that the order of this Court has not been fully complied with. The operative part of the order is quoted below:-

“In view of findings, given by the Enquiry Officer, we feel that as on today, there is no reason with the respondents to stop payment of retiral benefits to the petitioner. Faced with the situation, Shri Rathee very fairly states that balance of the retiral benefits shall be paid to the petitioner within a period of two months, subject to right of the Government to initiate disciplinary proceedings, if need be, against the petitioner after conclusion of pending litigation, as has been opined by the Enquiry Officer. It is left open to the petitioner to make representation with regard to

any other amount, which may have fallen due to him other than the retiral benefits and in case any representation is made by him in that regard, the same shall be decided by the authorities concerned within a period of three months from the date of receipt of representation.

In view of the findings, given above, this writ petition stands disposed of.”

Pursuant to notice of motion, reply and affidavits were filed.

Learned State counsel submits that the due retiral benefits have been given to the petitioner. He was asked to hand over the details of the calculation of the amount found due to the petitioner, the same were handed over on 15.11.2019 and copy thereof, was taken on record.

Learned counsel for the petitioner raises a grievance that the pension of the petitioner is fixed provisionally and accordingly, other consequential benefits have not been worked out properly.

Learned State counsel submits that petitioner was charge sheeted, same is pending and there is litigation going on in this Court by way of first appeal. He further submits that petitioner is enjoying full pension.

Learned counsel for the petitioner disputes the fact that petitioner is being awarded full pension.

The issue raised by learned counsel for the petitioner cannot be gone into as the issue raised is debatable. Unless and until the Court is satisfied that there is wilful disobedience of order of this Court, the question of initiating any contempt proceedings does not arise. Reliance in this regard is place on judgment of Apex Court in **M/s. Diamond Plastic Industries v. Govt of A.P 2002(2) JT 640**, wherein it was held as under :

“3. Ms. Shyamla Pappu, learned Senior counsel then referred to a Report of the General Manager, District Industries Centre, Sangareddy, Medak District dated 19th March, 2001 wherein the said officer appears to have taken the view that the claim of M/s. Diamond Plastic Industries was on the basis of the orders made by the BIFR, High Court and the Supreme Court. But the reading of the officer of the order of Supreme Court probably is not correct. At any rate such reading of the concerned officer does not confer a right on the claimant nor would it amount to a violation of the Court's direction so as to take action against the State of Andhra Pradesh and/or officers of State of Andhra Pradesh for non-payment of the amount in question. Unless and until the Court is satisfied that there has been a deliberate violation of any positive direction, the question of initiating any contempt proceedings or taking any action against any party under the provisions of Contempt of Courts Act does not arise. Having regard to the facts including the orders passed by this Court, already referred to, we do not see any justification for initiating or taking any action against the respondents under the provisions of Contempt of Courts Act.”

(emphasis supplied.)

The matter can be looked into from another angle i.e. the directions of this court have been substantially complied with by paying the balance benefit. Even the representation given by petitioner was decided as per directions of this Court. The respondent was given liberty to initiate disciplinary proceedings, the matter with regard to charge sheet is still pending in litigation. In such circumstances, it is not a case for interference in contempt proceedings.

In view of above, present petition is disposed of.

Rule issued against the respondents stands discharged.

Needless to add that petitioner would be at liberty to avail remedy in accordance with law for the redressal of grievance with regard to fixation of pension and consequential benefits.

NOVEMBER 21, 2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *Yes*