

01 16.09.22

Ct. No. 04

Akd

WPCRC 156 (W) of 2016

In

WP.ST. 342 of 2013

Shri Shambhunath Naskar

Vs.

Dr. Parijat De & Anr.

Mr. Golam Mastafa,

Mr. Tara Sankar Samanta,

Mr. Samirul Sardar.

... for the petitioner.

Mr. Tapan Kumar Mukherjee,

Mr. Pranab Halder.

... for the alleged contemnor.

Pursuant to the Rule having issued upon the alleged contemnor, Mr. Saibal Mukherjee, the alleged contemnor no. 2, is personally present in Court today.

Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader, hands over the affidavit affirmed by the said contemnor disclosing the compliance of the order dated 5th September, 2013 passed by the Division Bench in WP.ST. 342 of 2013.

By the said order this Court while disposing of the writ petition directed the Director of Technical Education and Training, West Bengal, to consider the matter in terms of the order passed by the Tribunal on 22nd July, 2013 in case no. CCP 63/2013 without any further delay and positively within four weeks from the date of the communication of the order.

The order dated 22nd July, 2013 passed by the Tribunal would reveal that Tribunal directed the said authority to consider the claim of the petitioner pertaining to revision of pay scale if at all admissible in terms of the Memorandum of Finance Department or Labour Department taking into account the nature of work discharged by the petitioner.

It thus logically followed that this Court directed the alleged contemnor no. 2 to exercise to take a

decision on revision of scale of pay if admissible in terms of the Memorandum relevant at that particular time and if the petitioner is entitled to the benefit provided therein, the same is to be extended.

The affidavit of compliance filed today would reveal that pursuant to the order dated 5th September, 2013 passed by this Court in WP.ST. 342 of 2013, the then Director of Technical Education and Training, West Bengal, disposed of the claim of the petitioner by enhancing the remuneration from Rs.400/- per month to Rs.2,000/- per month with effect from 1st June, 2009 in terms of the Government Orders issued by the Finance Department being G.O. No. 3727-F dated 20th May, 2009 and G.O. No. 8662-F dated 7th September, 2009. The said order was passed on 20th September, 2013 which is within the period provided in the order dated 5th September, 2013 passed by this Court and duly communicated to the petitioner on 30th September, 2013.

Despite having aware of the decision, the contempt application was filed and is being pursued alleging willful and deliberate violation of the said order dated 5th September, 2013.

The contempt jurisdiction cannot be invoked for the purpose of review of an order nor can be invoked for the purpose of rehearing of the matter on the basis of the subsequent order passed in terms of the final order. The moment Court directed the authority to take a decision pertaining to revision of scale of pay in terms of the Memorandum issued by the Finance Department or Labour Department and such decision having taken, it gives a further cause of action in the event the petitioner is still feeling aggrieved thereby.

The Court is mainly concerned with compliance of an order in order to protect the majesty and sanctity of the Court, which cannot be allowed to be

undermined at any cost. Whether the decision is legally correct or not is a fresh cause of action amenable to be assailed before the appropriate forum, for which the contempt jurisdiction should not be exercised unless the Court finds that the said order is mere eyewash or the malice is patent.

In this case we do not find that there is any willful and deliberate violation of the order nor we find any laches attributable to the delay in compliance thereof.

We thus dismiss the contempt application being CPAN 2111 of 2013.

However, we make it clear that it is open to the petitioner to take appropriate steps against the said decision dated 20th September, 2013 before the appropriate forum, if admissible in law.

The contempt Rule is discharged. WPCRC 156 (W) of 2016 is thus disposed of.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)