

[104] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCN No.128 of 2020
Date of Decision :02.09.2022

Ranjita @ Renu ...Petitioner

versus

Kakumanu Siva Prasad and othersRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Neeraj Sharma, Advocate for the petitioner.
Mr. Ayush Sarna, Asstt. AG, Punjab.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiation of proceedings against the respondents for intentional and willful defiance of order, Annexure P-1, dated 09.05.2019, in CWP No.29701 of 2017 in case titled as '**Ranjita**versus**State of Punjab and others**'.

[2] Vide order, Annexure P-1 dated 09.05.2019CWP No.29701 of 2017, was disposed of by directing the respondents to consider and decide the claim of the petitioner for grant of family pension, within two months from the date of receipt of order and to release admissible amount to the petitioner as per entitlement within 01 month thereafter.

[3] Reply filed by the learned Asstt. AG, Punjab is taken on record and copy thereof supplied to learned counsel for the petitioner. Learned Asstt. AG, Punjab, contends that vide order Annexure R-6 dated 27.08.2019, approval was given to the grant of benefits to the petitioner under the Old Pension Scheme, whereafter vide order Annexure R-2 dated 15.01.2020, the Accountant General, Punjab, approved the pension case of the petitioner for grant of basic pension of Rs.6815/- and issued PPO

Leave Encashment amounting to Rs.2,98,500/- and Ex-gratia amounting to Rs.1,00,000/- was sanctioned in favour of the petitioner vide order Annexure R-3, R-4 & R-5, dated 15.01.2020, 19.03.2020 and 11.02.2020 respectively and in pursuance thereto payment *qua* aforesaid benefits released to the petitioner, therefore no action is called for against the respondents under the Contempt of Courts Act, 1971.

[4] *Per contra*, learned counsel for the petitioner contends that CWP No. 29701 of 2017, was disposed vide order Annexure P/1 dated 09.05.2019 by directing the respondents to consider and decide the claim of the petitioner for family pension, within two months from the date of receipt of order and to release the amount to the petitioner as per entitlement within 01 month thereafter whereas the benefits were sanctioned as per details given above and pension arrears w.e.f. August, 2016 to September, 2020 i.e. for 50 months, totaling Rs.7,85,000/- credited in the account of the petitioner on 14.09.2020, while amount of Rs.2,98,500/-, which was sanctioned on account of leave encashment on 19.03.2020 was credited in the bank account of the petitioner on 24.06.2020 and gratuity of Rs.9,25,350/-, which was sanctioned on 15.01.2020 was credited @ Rs.2,31,337/- in the account of the petitioner on 17.11.2020 and of like amount in the account of the petitioner's three children, totaling Rs.9,25,350/- on 17.11.2020.

[5] Learned Counsel contends that in the circumstances, the respondents are liable to be punished under the Contempt of Courts Act, 1971 besides, the petitioner awarded exemplary costs, as well as liberty to file a representation before the respondents for grant of some benefits which have been wrongly withheld despite entitlement besides interest on account of delayed release of payment.

[6] A perusal of the record reveals that the petitioner's husband who was initially employed as a Work Charged employee in March, 1985 was regularized by the respondents w.e.f. 09.02.2012 whereafter he continued working with the respondent-department till his death on 06.08.2016 leaving behind the petitioner and their three minor children.

[7] Claim of the petitioner that the benefits of service rendered by her husband including family pension had not been extended to her was rejected on the ground that services of the petitioner were regularized in the year 2012, therefore it was the New Contributory Pension Scheme which would be applicable, accordingly, the petitioner was held not entitled to the grant of family pension. CWP No.29701 of 2017 challenging the aforementioned action of the respondents, was answered in favour of the petitioners vide Annexure P-1.

[8] I have considered the submissions of learned counsel.

[9] Admittedly the petitioners husband died on 06.08.2016 while the writ petition filed in the year 2017 was disposed of vide order Annexure P/1 dated 09.05.2019 to decide the claim of the petitioner and release benefits admissible to her within 01 month thereafter whereas the benefits were sanctioned only in the year 2020 and DCRG on 15.01.2020, Leave Encashment on 24.03.2020 and Death Ex Gratia on 25.02.2020.

[10] Benefits to the family of the deceased-employee ought to have been released immediately and in any case within the shortest period after the death of the petitioners husband in the year 2016. However, as noted above, the respondents sanctioned the benefits only in the year 2020 thereby the petitioner was put to unnecessary harassment besides had to invoke the jurisdiction of the High Court twice. The respondents not only

but also took their time in deciding and sanctioning the benefits without seeking extension of time. Reference in this connection can be made to the decision in COCP No. 3205 of 2015. Relevant extract of the same is reproduced as under :-

“[4] Learned Counsel relies upon the decision in *Ramdut and Ors. versus Vikas Gupta and Ors.*, Law Find Doc ID # 847564, ‘*Batra Hospital and Medical Research Centre of Ch. AishiBatra Employees’ Union versus Management of Batra Hospital and Medical Research Centre of Ch. Aishi Ram Batra Public Charitable Trust and others*’, Law Finder Doc ID # 65503 and *Advani Oerlikon Ltd. vs. Union of India*, Law Finder DOC ID # 217034.

Relevant extract of the decision in *Ramdut’s case (Supra)* is reproduced as under :-

“3. Learned counsel for the petitioners submit that the claim of the petitioners was to be considered within a period of four months from the date of receipt of copy of the representation but the order has been passed after a delay of approximately one year. Due to not taking any action by the respondents, the petitioners had to file the present contempt petitions for non-compliance of the order which has burdened them with unnecessary expenses to be incurred by the petitioners.

5. No doubt, the delay has occurred in compliance of the order passed by this Court. In case any delay was there, even on the part of the petitioners because of non-appearance, the respondents could have filed application for extension of time but no such action has been taken. Moreover, the contempt proceedings are between Court and the Authorities to whom the directions were issued. The order has been passed after a long delay and petitioners are

at liberty to challenge the same. However, keeping in view the delay which has been caused by the respondents in passing of the order, a sum of Rs.25,000/- as costs is imposed upon the respondents for non-compliance of the order within the stipulated period. The amount of cost shall be paid to the petitioners by way of draft, which shall be shared equally in both the petitions, within a period of one month from the date of receipt of copy of the order. However, the respondents are also directed to be careful in future.”

Likewise relevant extract of the decision in Batra Hospital and Medical Research Centre’s case (Supra) is reproduced as under :-

“5. In light of the aforesaid discussion and the fact that the order has been complied with the explanation offered by the respondents is accepted. However, I am of the view that ends of justice would served if the respondents be put to terms for the delay in compliance of the order passed by this Court. Accordingly, the respondents are directed to pay a sum of Rs.12,000/- as costs. No further orders are called for in the present petition. The same stands disposed of. Notice is discharged.”

Relevant extract of the decision in Advani Oerlikon Ltd.’s case (Supra) is reproduced as under :-

“4. On the merits of the case, Mr. Maninder Singh has explained that the representation was received only in September, 2003 and immediately a fresh hearing was granted on 21.10.2003. The detailed Speaking Order is dated 23.10.2003 and is Annexure A and is available on the record. The respondent has been remiss in the manner in which these legal proceedings have been handled. Even though the order dated 07.03.2003 disposing of C.W.

No.5069/1997 was passed ex parte, it was the bounden duty of the respondents to follow up their case. The cavalier attitude must be censured. Since the representation has been disposed of by order dated 23.10.2003, this petition is disposed of as satisfied, with costs of Rs.10,000/- payable by the respondent to the petitioner. ”

[11] Undoubtedly, in case of any difficulty in compliance with directions within stipulated period of time, an application can be moved by a party which is under obligation for seeking extension of time for complying with the orders by setting out the reasons for inability to comply with the directive within the stipulated period to time and not sit on the matter and decide the same as per time schedule convenient to the authority. Thus although, grievance was made by the petitioner immediately in the year 2016 on death of her husband, and on invocation of CWP No. 29701 of 2017 leading to issuance of directions vide Annexure P/1 dated 09.05.2019, it is only vide order, Annexure R/2, to R-6 dated 15.01.2020 that the payment has been sanctioned to the petitioner as per entitlement determined vide order Annexure R-2 dated 15.01.2020. Delay in compliance with the directions after knowledge of the time bound directions undermines the majesty of law especially when no application is moved for extension of time setting out the difficulty in compliance. It is not open to the authority which is under obligation in terms of a directive of a Court to take a decision in terms of the directive as per its convenience. There is not even a whisper of an explanation in the reply with regard to the urgency shown by the authorities to comply with the directive on becoming aware of the same. Since, directions in order, Annexure P/1 have been complied with and payment made to the

petitioner of arrears of 50 months of pension on 14.09.2020 besides on account of leave encashment on 24.06.2020 and on account of gratuity on 17.11.2020 no action for proceeding against the respondents under the Contempt of Courts Act, 1971 is called for. However, as there was delay in compliance with orders, Annexure P/1 and no steps were taken to comply with said orders within the stipulated period of time nor any steps were taken to seek extension of time, ends of justice would be met by awarding costs of Rs.22,000/- while granting liberty to the petitioner to represent to the respondents qua the relief as is claimed to have been wrongly denied, as also to take out proceedings in respect thereto as also for seeking interest on the delayed payment of retiral benefits as per law.

[12] Costs as above be remitted to the petitioner by way of Demand Draft within two months of receipt of certified copy of order by registered post and compliance report be filed in the Registry within 4 weeks thereafter failing which the Registry is directed to list the instant petition for securing compliance.

[13] *Rule discharged.*

(B.S. Walia)
Judge

02.09.2022

'Rajneesh'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>