

COCp-123-2020

Date of Decision :14.11.2022

USHPINDERJIT KAUR

...Petitioner

Versus

GURPREET KAUR SAPRA

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. M.K. Dogra, Advocate for the petitioner.
Mr. Ajit Singh Natt, AAG, Punjab.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiating proceedings against the respondent for intentional and willful defiance of order, Annexure P/1, dated 29.05.2019 in CWP No.14869 of 2019 in case titled as Ushpinderjit Kaur vs. State of Punjab and others.

[2] A perusal of order, Annexure P/1 reveals that CWP No.14869 of 2019 was disposed of by directing the respondents therein to decide representation dated 12.04.2018 filed by the petitioner within three months from the date of receipt of certified copy of the order and in case the petitioner was found entitled to monetary benefits on decision of the representation, to release the same to her within three months thereafter.

[3] Learned counsel contends that in view of the needful not having been done in terms of order, Annexure P/1 dated 29.05.2019 in CWP No.14869 of 2019 within the stipulated period of time, apart from punishing the respondents under the Contempt of Courts Act, 1971, the petitioner is entitled to award of exemplary costs.

[4] Per contra, learned AAG states that the time was taken on account of processing of the claim of the petitioner and not due to intentional and willful defiance of order, Annexure P/1 dated 20.05.2019 besides although order was passed on 06.09.2022 yet payment of retiral dues i.e. Rs.10,00,000/- on account of gratuity, Rs.3,08,043/- on account of part arrears of pension, Rs.10,42,786/- on account of balance amount of arrears of pension as also payment on account of leave encashment was made to the petitioner on 30.04.2021, 31.08.2021, 30.09.2021 and in the year 2021, besides, payment of Rs.22,00,000/- on account of GPF was made to the petitioner in the year 2019.

[5] I have considered the submissions of learned counsel for the parties.

[6] Admittedly, vide order Annexure P/1 dated 29.05.2019 in CWP No.14869 of 2019, the respondents were directed to consider and decide the relief claimed by the petitioner with regard to release of retiral benefits within three months from the date of receipt of certified copy of the order and in case the petitioner was found entitled to any monetary benefits on decision of the representation, to release the same to her within three months thereafter.

[7] It needs noticing here that the petitioner retired from service as CDPO on 31.01.2019 and on failure of the respondents to release retiral benefits, the petitioner filed CWP No.14869 of 2019 and submitted certified copy of order Annexure P/1 dated 29.05.2019 to the respondent on 14.06.2019, but when no decision was taken on her claim within the stipulated period of time, the petitioner filed the instant petition on

04.01.2020. Although, vide order dated 14.01.2020, compliance report was called from the respondent for 13.05.2020, but decision was still not taken and it was only on 06.09.2022 that an order was passed and although no decision was taken within the stipulated period of time, but payment of Rs.10,00,000/- on account of gratuity, Rs.3,08,043/- on account of part arrears of pension, Rs.10,42,786/- on account of remaining arrears of pension, besides, leave encashment was made to the petitioner on 30.04.2021, 31.08.2021, 30.09.2021 and in the year 2021, besides, Rs.22,00,000/- was paid on account of GPF in the year 2019.

[8] Learned counsel for the petitioner contends that speaking order with regard to entitlement of the petitioner was passed only on 06.09.2022 and although there is no variation in the amount of benefits paid to the petitioner earlier, yet the claim of the petitioner for interest on delayed payment has been denied.

[9] Benefits to the petitioner on account of her retiral benefits ought to have been released immediately and in any case within the shortest period of her retirement on 31.01.2019 in the absence of any legal impediment. Payment on account of gratuity, part arrears of pension, balance arrears of pension and leave encashment was made after more than two years of the petitioners retirement though payment on account of GPF was made in the year 2019 itself. No application for extension of time for complying with the orders was filed. In the circumstances, the petitioner was put to unnecessary harassment, besides had to invoke the jurisdiction of the Court not only to seek directions to the respondent to decide her claim but also for taking action against the respondent on

failure to decide the representation and take follow up action. Learned counsel relies upon the decision of this Court in ***COCP No.128 of 2020 in case titled as Ranjita @ Renu vs. Kakumanu Siva Prasad and others*** decided on 02.09.2022 to contend that in the circumstances the petitioner is entitled to award of exemplary costs, besides liberty to seek interest on the delayed release of payment by way of appropriate proceedings in accordance with law. Relevant extract of the aforementioned decision is reproduced as under:-

“[4] Learned Counsel relies upon the decision in Ramdutan Ors. versus Vikas Gupta and Ors., Law Find Doc ID # 847564, ‘Batra Hospital and Medical Research Centre of Ch. Aishi Batra 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 Ramdutan’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 nonappearance, 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.”

[10] In case of any difficulty in compliance with the orders of a Court within the 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 orders within the stipulated period to time and not sit on the matter and decide the same as per time schedule convenient to the authority.

[11] In the instant case, although the petitioner retired on 31.01.2019, yet as has been noted above, the retiral benefits were released to her only after a period of more than two years and that too after the filing of CWP No.14869 of 2019 and thereafter COCP No.123 of 2020. Delay in compliance with the orders in CWP No.14869 of 2019 despite knowledge of the same on account of supply of certified copy of the order, Annexure P/1 dated 29.05.2019 on 14.06.2019 in the absence of an application for extension of time reflects gross indifference of the respondents not only to the plight of the pensioner but also to the orders passed by this Court. Besides, although payments had been released to the petitioner on account of retiral benefits admissible to the petitioner that too after a delay of more than two years from the date of her retirement, speaking order in compliance of Annexure P/1 dated 29.05.2019, was passed only on

[12] Admittedly, there is no justifiable explanation in the reply with regard to the delay / indifference by the competent authority to comply with the directive on becoming aware of the same. Since directions in order, Annexure P/1 have been complied with and apology tendered on account of delay, therefore, I am of the view that the respondent need not be punished under the Contempt of Courts Act, 1971. However, since financial benefits pursuant to retirement were not released to the petitioner except after a delay of more than two years, and that too only after the petitioner was compelled to invoke the jurisdiction of this Court twice, I am of the considered view that the petitioner is entitled to award of costs of Rs.25,000/- as also liberty to take out appropriate proceedings in accordance with law to seek interest on the delayed payment of retiral benefits.

[13] Costs as ordered above be paid to the petitioner by way of Demand Draft within two months from today by Registered Post and compliance report be filed in the Registry within two weeks thereafter failing which the Registry is directed to list the matter for securing compliance.

[14] Contempt petition disposed of with the aforementioned terms.

(B.S. Walia)
Judge

14.11.2022

'Amit'

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