

Court No. - 21

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2384 of 2019

Applicant :- Ram Deo Singh

Opposite Party :- Rajeev Agrawal General Manager Norht Eastern Railway And Anr.

Counsel for Applicant :- Chandra Bhushan Pandey,Asim Kumar Singh

Counsel for Opposite Party :- Nuruddin Ansari,Chandra Shekhar Sinha,Varun Pandey

Hon'ble Rajeev Singh,J.

Discharge application/affidavit of compliance filed by Shri Nuruddin Ansari, learned counsel for the respondent no. 2 is taken on record.

Heard Chandra Bhushan Pandey, learned counsel for the applicant and Shri S.B. Pandey, learned Assistant Solicitor General assisted by Shri Varun Pandey, learned counsel for the respondents.

Learned counsel for the applicant submits that present contempt application has been filed with the averment that the order of the writ Court dated 3rd July, 2019 passed in Writ Petition No. 1806 of 2015 (Union of India & Anr. Vs. NER Employee Union (PRKS) & Ors.) is not complied in correct prospective. It has further been submitted that the back wages have not been paid to the applicant, despite a direction of the writ Court for compliance of the award passed by CGIT. Placing reliance on the judgment of the Hon'ble Apex Court in the case of **Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.ED.) & Ors., (2013) 10 SCC 324**, learned counsel for the applicant submits that the word 'reinstate' means the employees should be reinstated along with back wages in the back position along with all the benefits.

Shri S.B. Pandey, learned Assistant Solicitor General appearing for the respondent no. 1, on the other hand, vehemently opposes the prayer of the learned counsel for the applicant and submits that vide award dated 20th August, 2014, CGIT has directed that the applicant is entitled for reinstatement and regularization w.e.f. 3rd July, 1990, the date when the canteen was taken over by the NER. It is further submitted that prior to that date, canteen

was being operated by the private organization and it was taken over by the NER after 3rd July, 1990. It is also submitted that while dismissing the writ petition filed against the aforesaid award, the writ Court directed the respondents to comply the award of CGIT forthwith and to give all the consequential benefits arising out of the award to all the workmen within a period of three months from the date of the order. Submission of Shri S.B. Pandey, learned counsel for the Union of India is that in pursuance of the aforesaid award as well as the order of writ Court, the services of the applicant have been regularized since 03.07.1990, however, as he was not in service, therefore, 'No Work No Pay' was ordered, but the fixation of salary was done treating the applicant in service since 3rd July, 1990 and he is being paid salary regularly since then. It is next submitted that the ratio of the judgment relied by the learned counsel for the applicant is not applicable in the present case for the purpose of reinstatement, as the applicant was never allowed to work under the NER and it is undisputed that the canteen was taken over by the NER after 3rd July, 1990.

Considering the arguments advanced by the learned counsel for the applicant as well as Shri S.B. Pandey, learned Assistant Solicitor General and going through the record, including the award dated 20.08.2014 and the order of the writ Court along with the affidavit of compliance, it is evident that there was no order for the payment of the back wages. It is also evident that the canteen in question was being operated by the private operator till 03.07.1990 and thereafter it was taken over by the NER. Thus, the award as well as order of the writ Court is already complied with.

In view of above, no case for contempt is made out.

The application, accordingly, stands dismissed.

Order Date :- 5.9.2022

VKS