

D/L. 3 & 4.
August 18, 2023.
MNS.

CPAN 812 of 2022
in
WPA No. 8157 of 2015

Puspita Roy
Vs.
Sanjay Kumar Singh and others

Mr. Siddhartha Banerjee,
Mr. Santanu Chatterjee,
Mr. Rajendra Kumar Nandi

... for the petitioner.

Mr. Debnath Ghosh,
Mr. Saunak Sengupta,
Mr. Pradipta Bose

...for the alleged contemnor no. 4.

Mr. S. Bera

...for the alleged contemnor nos. 5 & 6.

Affidavits-in-opposition filed by the alleged
contemnor nos. 5 and 6 in Court be kept on record.

Learned counsel for the petitioner contends
that, in patent violation of an order dated July 13,
2015 passed in W. P. No. 8157(W) of 2015, the
Controlling Authority and thereafter the Appellate
Authority proceeded to decide on the question of
disbursal of terminal benefits of the deceased
employee of Eastern Coalfields Limited (ECL),
namely, Achinta Kumar Roy, regarding entitlement
of which, there has been a dispute between the

petitioner and a third party. It is contended, by placing reliance on the order under contempt as well as the subsequent orders passed, that although ECL took as a ground in their appeal before the Appellate Authority that the Controlling Authority, in the first place, could not decide the issue in the teeth of the order of the Co-ordinate Bench of this Court, such order was flouted time and again.

Learned counsel appearing for the ECL points out that no civil suit was filed at all by the petitioner pursuant to the leave given by the co-ordinate Bench in the parent order. Secondly, it is argued, a writ petition has been preferred by the mother of the present petitioner against an order passed by the Appellate Authority affirming the order of the Controlling Authority regarding disbursal of the amount.

Thirdly, it is argued that the petitioner participated fully in the proceedings before the Controlling Authority as well as the Appellate Authority and, as such, cannot now resile from such position and allege contempt.

It is further pointed out that no interim order has been passed in the writ petition preferred by the mother of the petitioner, referred to above.

Learned counsel appearing for the alleged contemnor nos. 5 and 6 argues that the Controlling Authority at the first instance passed an order on January 4, 2016, in an application, which was pending even on the date when the order under contempt was passed by the co-ordinate Bench.

On subsequent dates, an appeal was taken out and on August 18, 2018, the Appellate Authority remanded the matter, upon which the Controlling Authority re-heard the matter and passed an order, which was also challenged in appeal. Being thus affirmed in the appeal, a writ petition was preferred and is pending now.

It is pointed out that the liberty granted by the Co-ordinate Bench while passing the order under contempt was for initiation of an “appropriate civil action before an appropriate forum in accordance with law”, which does not necessarily mean a civil suit.

In any event, the Controlling Authority and the Appellate Authority ought not to have patently flouted the order of the Co-ordinate Bench of this Court by disbursing the amount-in-question on the basis of even a succession certificate.

Upon hearing learned counsel for the parties, it transpires that the petitioner contends

that a proceeding for issuance of 'succession certificate' was initiated by the rival claimant of the petitioner to the terminal benefits of late Achintya Kumar Roy, in connection with which the petitioner has preferred a revocation application, which is now pending.

The premise of the allegation of contempt requires an interpretation of the order dated July 13, 2015 passed in W.P. No. 8157(W) of 2015 in the least. If multiple interpretations of an order are possible, that itself is a mitigating factor in contempt, since a doubt, then, is cast on the violation of an order being deliberate.

The alleged contemnors have made out a strong arguable case as to whether the liberty granted to the petitioner regarding initiation of an appropriate civil action was ever fulfilled by the petitioner.

Although a succession certificate application and a revocation application are proceedings of a "civil nature", it is doubtful as to whether the same constitutes an "appropriate" civil action claiming title as an heir of a deceased.

The clear language of the order alleged to be under contempt was that the writ petitioner was at liberty to "claim her legal right as an heir of the

deceased employee, namely, Achintya Kumar Roy”, by initiating an appropriate civil action before an appropriate forum.

On a *prima facie* view, the same can only contemplate a regular civil suit before a competent civil court, since a succession certificate confers limited rights on a person to deal with movable properties of a deceased, without deciding the right, title and interest of a person as a legal heir of such deceased.

In the absence of any such suit having been filed pursuant to the liberty granted by the co-ordinate Bench by the petitioner for so long a time, there is no irregularity on the part of the Controlling Authority and/or the Appellate Authority in passing due orders for disbursal of the amount.

In any event, it is not in doubt that the deceased Achintya Kumar Roy was an employee of the ECL and his legal heirs were entitled to the terminal benefits in that regard.

Mere tussle between the two rival claimants cannot absolve the employer, that is, ECL, to withhold the amount of terminal benefits forever.

Taking the argument of the petitioner to its logical conclusion, the ECL would have to wait for an indefinite period, may be forever, before

disbursing the terminal benefits, if any civil suit is not filed by any of the parties, thereby depriving all concerned from such terminal benefits for all time to come. Such an interpretation is absurd.

I do not find any patent or deliberate violation of the order of this Court by the Controlling Authority and/or Appellate Authority in *prima facie* deciding the rights of the parties as legal heirs of the deceased employee and granting certain reliefs.

However, the merits of the orders of the Controlling Authority and/or Appellate Authority are sub judice before a competent writ court and there is no scope of this Court, within the limited constraints of the contempt jurisdiction, to discuss or adjudicate upon the merits of such challenge.

With the above observations, CPAN 812 of 2022 is dismissed without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)