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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 14th September, 2023**

+ **W.P.(C) 11840/2022 & CM APPL. 51314/2022**

SHYAM KUNVAR

..... Petitioner

Through: Mr. Jatin Teotia, Mr. Varenym
and Ms. Yashika Anand,
Advocates.

versus

**C. L. BHALLA DAV SENIOR. SECONDARY PUBLIC
SCHOOL AND ORS.**

..... Respondents

Through: Mr. Vivek Kumar Tandon, Ms.
Perna Tandon and Mr.
Dharsnik Narany, Advocates for R-
1.
Mr. Yeeshu Jain, Addl. Standing
Counsel with Ms. Jyoti Tyagi, Ms.
Manisha and Mr. Hitanshu Mishra,
Advocates for R-2 and 3.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present petition has been filed on behalf of the petitioner under Article 226 of the Constitution of India, praying for the following:



“i. Direct the Respondents to release GPF amount of Rs.70,000/- along with interest rate of 24% to the petitioner; and

ii. may pass any such other or further orders’ as deem fit and proper in the interest of justice.”

2. The factual matrix of the petition are as follows:

- a) The petitioner was appointed as a trained graduate teacher(hereinafter “TGT”),English to D.A.V Secondary School with effect from 1stJuly, 2000, was shifted to C.L. Bhalla D.A.V Senior Secondary School (hereinafter “respondent school”) with effect from 1st September 2010. Subsequently, the petitioner started working at another school with effect from 21stDecember 2019.
- b) On 21st November 2019, the petitioner submitted an application for General Provident Fund (hereinafter “GPF”) withdrawal on account of birthday celebrations of his wife and son on 1stJanuary 2020, no action was taken with regards to the said withdrawal.
- c) The petitioner made representations in order to know the status of the GPF withdrawal, but received no response which eventually led the petitioner to borrow money from non-institutional persons.
- d) Aggrieved by the inaction by the respondent school, the petitioner was filed a Writ petition bearing no. W.P. (C)



10406/2019 before the Coordinate Bench of this Court seeking withdrawal of Rs.70,000/- from his GPF account, reimbursement of pending medical bills, payment of child education allowance to the petitioner and pay fixation from the respondent school. Consequently, the Writ petition was disposed of by this Court *vide* order dated 5th March 2020.

- e) The petitioner filed CM Application no. 346036/2020 seeking withdrawal of Rs. 70,000/- from his GPF account for the celebration of the birth ceremony of his wife and son.
- f) *Vide* the said order, the Coordinate Bench (Court directed the respondent school to place the case of the petitioner before the Directorate of Education (hereinafter “DOE”) or the concerned Deputy DOE to provide due consideration to the issues raised by the petitioner in a time bound manner. In lieu of the order passed by this Court, the petitioner was granted pay fixation, reimbursement of pending medical bills and child education allowance by the respondent school, however the GPF withdrawal was not granted.
- g) Further, the petitioner made multiple representations to the respondent school for compliance of the order dated 5th March 2020 and received a response of the same *vide* letter dated 11th June 2020, stating that the file of the petitioner had been returned from the senior accountant (hereinafter “respondent no.4”) with the reason that since the



birth ceremony of the petitioner's wife and son is over, no further withdrawal from the GPF fund would be permissible as per Rules.

3. Aggrieved by the conduct of the respondents, the petitioner preferred contempt petition bearing No. CONT. CAS(C) 720/202 before the Coordinate bench of this Court, for non-compliance of the order dated 5th May 2020 and the same was dismissed with liberty to pursue his legal remedies available in law, *vide* order dated 29th September 2021. Learned counsel appearing on behalf of the petitioner submitted that the application of withdrawal of GPF was submitted by the petitioner on 21st November 2011, however the respondent school and respondent no.4 provided reasons for non-grant of the said GPF only on 8th June

4. It is submitted that the release of the GPF in lieu of the birth ceremony of the petitioner's wife and son was denied on two grounds, the first one being delay and the second being statutory rules pertaining to Personnel, PG&pension.

5. *Qua* the reason of delay, it is submitted that the application seeking withdrawal of GPF amount was submitted by the petitioner 40 days prior to the birth ceremony of the petitioner's wife and son. As per paragraph 8 of the office memorandum dated 7th March 2017, issued by the Ministry of Personnel, PG & Pension the maximum time limit to release the GPF, for non-emergency cases is 15 days but respondent kept the matter pending at its own ends and did not decide the same, despite orders of the Coordinate bench of this Court in the writ petition(C) 10406/2019 dated



5th March 2020 which makes it evident the delay has been at the end of the respondent.

6. It is submitted on the reason pertaining to Rules, as per paragraph 2 (ii) of the office memorandum dated 7th March 2017, withdrawal of GPF for obligatory expenses viz. betrothal, marriage, funerals or other ceremonies of self or family members and dependents is permitted.

7. It is further submitted that the respondents have failed to comply with the order of this Court dated 5th March 2021 as well as the office memorandum dated 7th March 2017, aggrieved by which the petitioner filed a Contempt Petition which was disposed of vide order dated 29th September 2021, with liberty to the petitioner to pursue his remedies available as per law. Pursuant to which from October 2021, the petitioner tried to approach the different departments in the respondent organisation.

8. It is submitted that the petitioner faced severe financial hardship due to which he had to resort to taking a loan @24 % p.a, from non-institutional persons.

9. Hence, in view of the foregoing submissions, it is prayed on behalf of the petitioner, that the present petition may be allowed.

10. *Per contra*, learned counsels appearing on behalf of the respondents vehemently opposed the present petition submitting to the effect that that the subject account from which the petitioner was seeking withdrawal of amount for celebrating the birthday of his wife and son, is in fact not in the nature of a provident fund account but in the nature of a



savings bank account and therefore no embargo could be placed on the petitioner's right to withdraw any amount from the same.

11. DOE has granted all the prayers to the petitioner except withdrawal of GPF amount on the basis that date of the ceremony for which the GPF amount was required is over.

12. The present petition is a misuse of the power of the writ petition since, the petitioner is agitating the similar claim of withdrawal of GPF amount by filing various petitions.

13. As per the order dated 29th September 2021, the petitioner's request for withdrawal of GPF was put forth before the DOE, subsequent to which the DOE informed the school that the petitioner is not a beneficiary of the GPF, therefore the claim for withdrawal of the same is not maintainable.

14. It is submitted that the account maintained by the respondent school that a savings account was opened in the name of "Shyam Kunvar GPF accounts CL Bhalla DAV Senior Secondary School" which was only to be accessed by prior permission from the respondents; the said account was maintained by the principal of the respondent school, however a passbook and chequebook was issued to the petitioner by mistake.

15. It is submitted that the petitioner presented a cheque dated 6th September 2020 for withdrawal of the GPF amount, however the same was returned, with reason that the account of the petitioner had been



blocked.

16. It is further submitted that vide letter dated 4th January 2019, the respondent school approved the withdrawal of the petitioners GPF on account of the birth ceremony of the petitioner's wife and son, the letter was duly received by the Manager of the concerned bank along with the passbook on 16th January 2019, essentially submitting to the effect that the respondent school had fulfilled the formalities from their end with regards to the release of GPF amount.

17. Hence, in view of the foregoing paragraphs, it is submitted on behalf of the respondent that the present petition may be dismissed.

18. Heard the parties and perused the record.

19. It is the case of the petitioner that he was not allowed to withdraw the GPF due to the inaction and delays of the respondents' even though the petitioner had applied for the said withdrawal well in time.

20. It is contended by the petitioner that despite making several representations, filing a writ petition followed by a contempt petition, the respondents have yet not released the GPF amount.

21. Before delving into the facts of the case, this Court must discuss at length the history of the petitions which have been filed by the petitioner, essentially seeking to address the issues which are similar in nature. The first round of legal proceedings preferred by the petitioner was through W.P. (C) 10406/2019, which was disposed of by this Court while directing the respondents to place the case of the petitioner before the



DOE for due consideration. In lieu of the order passed by this Court, the petitioner was granted pay fixation, reimbursement of pending medical bills and child education allowance by the respondent school, however the GPF withdrawal was not granted. Aggrieved by the non-grant of the GPF withdrawal, the petitioner filed a contempt petition bearing No. CONT. CAS(C) 720/202, for non-compliance of order dated 5th May 2020, which was again dismissed by this Court *vide* order dated 29th September 2022 with the liberty to pursue other legal remedies.

22. As is evident from the aforementioned paragraph, the petitioner has preferred multiple rounds of litigation, seeking to address the same core issue i.e., withdrawal of GPF.

23. It is a settled principle of law that the High Courts must exercise caution while entertaining, multiple writ petitions trying to agitate the same issue.

24. The Hon'ble Supreme Court in the *Udyami Evam Khadi Gramodyog Welfare Sanstha v. State of U.P.*, (2008) 1 SCC 560 observed that the even in the event that the prayer made in all petitions preferred are apparently different, the core issue in each of the matters needs to be considered. It was further observed that the writ remedy is an equitable one and the person preferring such remedies should come with clean hands and not seek recourse to multiple legal proceedings essentially abusing the process of law.

25. As per the facts and material on record, this Court is of the opinion that the petitioner has preferred multiple rounds of legal proceedings



trying to agitate the same core issue i.e., withdrawal of GPF. Aggrieved by non-grant of the same, the petitioner has preferred the present petition, eventhough, the same core issue has been decided by this Court in W.P. (C) 10406/2019 *vide* order dated 5th March 2020, wherein the petitioner's case was put forth before the DOE for due consideration and the same consideration was granted and all reliefs except the withdrawal of GPF was granted to the petitioner. Further in order to get grant of GPF, the petitioner filed a contempt petition for non-compliance to the order dated 5th March 2020, which stood dismissed *vide* order dated 29th September 2021.

26. It is the duty of Courts to not habitually reverse the decisions rendered by other Courts or Coordinate Benches of the same Court. Any decision which is adjudicated by a competent Court cannot be challenged in a collateral proceeding as the same would ultimately lead to disarray. The principle of “finality of litigation” is a rather important one and has been established to avoid the disarray that would exist. In a country governed by a structured law, once a judgment/order has been pronounced, the parties are not permitted to re-open the same for a fresh round of legal proceedings as the same would be tantamount to an abuse of the process of law.

27. In view of the aforementioned paragraphs and judgments, this Court is of the opinion that the multiplicity of legal proceedings preferred by the petitioner, amounts to an abuse of the process of law. This Court does not deem it fit to allow the present petition seeking withdrawal of GPF as the petitioner has prayed to address same core issue in the



previous legal proceedings which have all attained finality. The petitioner has liberty to approach the higher authority to agitate his grievances pertaining to withdrawal of GPF amount.

28. Therefore, I do not find any substantial grounds for issuance of any order/writ to the respondent, as prayed. Accordingly, the instant petition stands dismissed. Pending applications, if any, also stands dismissed.

29. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

SEPTEMBER 14, 2023

pa/ds

Click here to check corrigendum, if any