

Court No. - 1

Case :- WRIT - A No. - 8173 of 2023

Petitioner :- Jai Singh Arya

Respondent :- Union Of India , Thru. General Manager North Eastern Railway Gorakhpur And Others

Counsel for Petitioner :- In Person, Harsh Vardhan Mehrotra, Ritika Singh

Counsel for Respondent :- A.S.G.I., Ajit Kumar Dwivedi

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Om Prakash Shukla, J.

1. Heard Ms. Ritika Singh, learned counsel for the petitioner, Shri S.B. Pandey, Deputy Solicitor General of India assisted by Shri Ajit Kumar Dwivedi, learned counsel for the respondent Nos.1 to 3.

2. The instant writ petition filed by the petitioner- Jai Singh Arya under Article 226 of the Constitution of India has prayed for the following reliefs:-

"I. To issue a writ, order or direction in the nature of certiorari quashing the impugned judgment and order dated 06.02.2023 passed by the learned Central Administrative Tribunal, Lucknow Bench, Lucknow, in Original Application No.118 of 2020 (Jai Singh Arya Vs. Union of India and Others). Copy whereof is contained as Annexure-1 to this writ petition.

II. To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 16.03.2023 passed by the learned Central Administrative Tribunal, Lucknow Bench, Lucknow, in Review Application no.332/00003 of 2023 (Jai Singh Arya vs. Union of India and others). Copy whereof is contained as Annexure-2 to this writ petition.

III. To issue a writ, order or direction in the nature of mandamus commanding the learned Central Administrative Tribunal, Lucknow Bench, Lucknow to adjudicate the case of the petitioner on merits, within such reasonable time frame as this Hon'ble Court may deem just and proper."

3. In compliance of this Court's order dated 20.11.2023, Mr. Umesh Kumar, Divisional Finance Manager, North Eastern Railway and Smt. Vithika Madhukar, Senior Section Officer are present in person alongwith the relevant record.

4. Insofar as the compliance of earlier judgement rendered in Writ Petition No.558 (S/B) of 2004 is concerned, we have

scrutinized the respective charts prepared by the bank and the railways empirically. The direction issued by this Court in the earlier writ petition reads as under:

"22. In the result, writ petition is allowed. Impugned judgment and order dated 23.03.2004 passed by Tribunal and order dated 18.04.2000 imposing punishment of 20 per cent deduction in pension of petitioner, are hereby set aside.

23. Petitioner shall also be entitled to costs which we quantify to Rs.50,000/-."

5. Insofar as compliance of the aforesaid directions is concerned, it is gathered that the withheld amount of pension to the tune of 20% has been paid to the petitioner as per the charts placed before us. We do not gather any anomaly with respect to the same.

6. Thus, the full and final payment, in compliance of the judgment passed by the High Court in the aforementioned writ petition, has been sufficiently made and the issue stands closed.

7. The petitioner appears to have raised a grievance before the Central Administrative Tribunal, Lucknow Bench, Lucknow (hereinafter referred to as "Tribunal") in relation to some other payments, as have been projected before us in a chart contained in Annexure No.7 to the writ petition.

8. In O.A. No.118 of 2020, it appears that the petitioner had assailed the order dated 06.03.2019. The record reveals that the O.A. filed by the petitioner was withdrawn by him with liberty to approach appropriate forum for redressal of the grievance. This order passed by the Tribunal on 06.02.2023 was subsequently sought to be reviewed in review application No.332/00003 of 2023. The review application on consideration by the Tribunal, was also rejected vide order dated 16.03.2023 on the premise that the applicant himself had chosen to withdraw the O.A., therefore, the review application would not lie.

9. It is under these circumstances that the present writ petition came to be filed against the orders passed by the Tribunal on 06.02.2023 and 16.03.2023. The record reveals that the applicant had appeared in person before the Tribunal.

10. In paragraph 4 of the review application, the petitioner had averred that he did not choose to withdraw the O.A. seeking any liberty and it is submitted that the order passed by the Tribunal came to be passed under some wrong impression.

11. Since the petitioner had appeared in person, therefore, the interest of justice would be served if the proceedings of O.A. filed before the Tribunal are reopened for adjudication in accordance with law.

12. Leaning towards the interest of justice, we hereby set aside the order passed by the Tribunal on the review application No.332/00003 of 2023 dated 16.03.2023 as well as the order passed in the O.A. No.118 of 2020 on 6.02.2023. The proceedings of the O.A. are consequently restored.

13. The petitioner may participate in the proceedings of the O.A. The Tribunal is hereby directed to decide the O.A. expeditiously in accordance with law for which the petitioner undertakes to appear in person or through counsel. The petitioner undertakes to be respectful towards the Court, if he chooses to appear in person.

14. It is made clear that the Tribunal shall decide the Original Application, on merits, in accordance with law, except the relief of 20% deduction of pension.

15. In view of the above, the writ petition stands **disposed of**.

(Om Prakash Shukla, J.) (Attai Rahman Masoodi, J.)

Order Date :- 23.11.2023
Shubhankar