

Ml- 01.03.2024
20 Ct.15
rkd

CPAN 1077 of 2019
In
W.P.A. 2747 of 2019

Ramkrishna Konar & Ors.

-vs-

Professor Bidyut Chakraborty & Anr.

Mr. Debapriya Gupta

....for the applicants.

Mr. Victor Chatterjee

....for the alleged contemnors.

The contempt application has been instituted alleging violation of the order dated 19th June, 2019 by which alleged contemnors were permanently restrained from recovering excess amount from the applicants' salary.

At the same time applicants were granted leave to make representations against re-fixation of their pay band within certain time and if such representations were made by the applications then the respondent authorities were directed to consider the same and to take decision in accordance with law by granting opportunity of hearing to the applicants.

The learned advocate representing the applicants submits that in spite of restraining the alleged contemnors from recovering excess amount from the applicants, the alleged contemnors are

paying salary upon fixing the same on the basis of lower grade pay as decided by the authority vide office order dated 22nd December, 2018. However, nothing is on record which goes to show that after issuance of the order dated 22nd December, 2018 passed by the alleged contemnors whereby grade pay of the applicants was downgraded, in violation of the direction as contained in the order dated 19th June, 2019 excess amount has been recovered from the applicants. However, from the submission made on behalf of the applicants, it transpires that applicants are aggrieved by payment of current salary based on order dated 22nd December, 2018 by which grade pay has been downgraded.

It is also jointly submitted by the learned advocate representing the parties to this contempt proceeding that based on the representations made by the applicants decision has been taken by the alleged contemnors for fixation of their pay band and it further appears from the submission of the parties that such decision went against the appellants since the authority decided not to change its stand relating to fixation of pay band as it emanates from the order dated 22nd December, 2018. The decision taken by the alleged contemnors on the representations of the

applicants seeking re-fixation of pay band may give rise to fresh cause of action and the same cannot be delved into in this contempt proceeding.

However, it is found that there is no action taken by the alleged contemnors to recover the excess drawn amount as alleged contemnors decided to recover in terms of the order dated 22nd December, 2018. It can be concluded that there is no willful deliberate violation on the part of the alleged contemnors of the directions as contained in the order dated 19th June, 2019. It is necessary to add herein that submission has been made that salary is being paid to the applicants based on downgraded pay band as per order dated 22nd December, 2018 with effect from 1st January, 2019 which cannot be treated as recovery of excess drawn amount.

Accordingly, the contempt application stands dismissed.

However, this order shall not preclude the applicants to take steps in accordance with law if they are aggrieved by the order passed by the alleged contemnors on representations seeking re-fixation of pay band.

Urgent photostat certified copy of this order, if applied for, be given to the learned

Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)