

25.08.2025
Item No.26
Court No.11
Avijit Mitra

CPAN 367 of 2024
in
WPCT 91 of 2017
with
IA No.CAN 1 of 2018 (Old No.CAN 1380 of 2018)
Debasis Upla & ors.
- Versus -
Mr. Milind K Deouskar & ors.

Mr. Ujjal Ray,
Mr. Arpa Chakraborty
...for the petitioners
Ms. Chandreyi Alam,
Ms. Runu Mukherjee
...for the alleged contemnors

The present contempt application has been preferred alleging violation of an order dated 12th September, 2017 passed by a coordinate Bench of this Court in a writ petition being, WP.CT 91 of 2017.

Records reveal that the said writ petition was preferred challenging an order dated 7th December, 2016 passed by the Central Administrative Tribunal, Calcutta Bench in OA 350/00457/2015. By the order dated 12th September, 2017, the writ petition was allowed and the order impugned in the same was set aside and it was observed that '*the petitioners shall be entitled to the grant of 3rd financial upgradation in the grade pay of Rs. 4,600/-*'. By the said order, the respondents were also directed to '*refund*

the amount as recovered from the petitioners' salary within a period of four weeks from date'.

Mr. Ray, learned advocate appearing for the petitioners submits that the Special Leave Petition preferred challenging the order dated 12th September, 2017 was dismissed and the review application preferred thereafter was also dismissed. In view thereof, the order dated 12th September, 2017 attained finality but even thereafter the respondents/contemnors have not complied with the same and such action is *ex-facie* contumacious.

Drawing our attention to the averments made in paragraph 4 (b) of the exception to the affidavit-of-compliance, Mr. Ray submits that the contemnors refunded an amount which was due to the writ petitioners, mentioned in the said paragraph, towards stepping up benefits and not the illegally recovered amount pertaining to the grade pay of Rs.4,600/-.

He further argues that the petitioners, mentioned in paragraph 4 (e) of the exception to the affidavit-of-compliance, were paid the lower grade pay of Rs.4,200/- instead of the grade of Rs.4,600/- from the year 2014 to the year 2019.

Ms. Alam, learned advocate appearing for the alleged contemnors denies the contention of Mr. Ray and submits that the order of this Court has been strictly complied with and the allegations levelled against the alleged contemnors

are absolutely unfounded. The petitioners, namely, Utpal Mallick and Hiranmay Majumder did not complete 10 years of regular service from the date of second promotion nor did they complete 30 years of regular service as mandatorily required for grant of 3rd MACP and they have also retired from railway service. One Sujit Kumar Das earned his 3rd promotion before the date of eligibility for 3rd MACP in the grade pay of Rs. 4,600/- and one Sri. Sasanka Sekhar Sikder was granted 3rd MACP *vide* memo dated 11th July, 2025.

She further argues that the writ petition was preferred jointly by 38 petitioners and the individual claims pertaining to alleged stepping up benefits were never urged in the writ petition.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The issues urged pertaining to the individual claims of the writ petitioners cannot be decided in the present contempt application.

It is well settled that the non-compliance of an order has to be willful and deliberate. Once a decision has been taken by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in the appropriate forum and such action

does not constitute contempt. The Court while deciding the application for contempt cannot traverse beyond the order.

Applying such proposition of law to the facts of the present case, we do not find that the alleged contemnors have committed any deliberate or intentional violation of the order passed by this Court.

In view thereof, no interference is called for in the present contempt application and the same is, accordingly, dismissed.

Needless to observe, the dismissal of the contempt application shall not prevent the petitioners to challenge the decision of the respondents before the appropriate forum, if so advised and in accordance with law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Reetobroto Kumar Mitra, J.)

(Tapabrata Chakraborty, J.)