

01.04.2026
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CPAN 984 of 2024
Sh. Alok Kumar Srivastava & Others
– Versus –
Mrs. Sunita Dawra & Others
in
WPCT 85 of 2010

Mr. Swapan Kr. Dutta,
Mr. Chandra Sekher Banerjee,
Mr. Sambuddha Dutta,
Ms. Aparajita Roy,
Ms. Madhumita Saha,
Mr. Kazi Ashique Azfar,
Mr. Shamit Dutta
... for the petitioners.

Mr. Kumar Jyoti Tewari,
Ms. S. Saha Dutta
... for the alleged contemnors.

The present contempt application has been preferred alleging violation of an order dated 10th January, 2024 passed in the writ petition, being WPCT 85 of 2010.

Records reveal that in connection with the said writ petition, the petitioners herein preferred an application for appropriate orders being IA No. CAN 12 of 2022 and the said application upon contested hearing was disposed of by the order dated 10th January, 2024 directing that *‘the applicants in the application IA No. CAN 12 of 2022 being the retired employees of CBWE, cannot also be denied all the benefits as extended in terms of the memo dated 28th May, 2008 moreso when similar relief had been granted in applications filed by other sets of retired*

employees, as would be explicit from the orders dated 7th September, 2012 and 17th December, 2013. The memo dated 28th May, 2008 would also be applicable to the applicants and payments should be made by the appropriate authority in their favour in implementation of the order dated 28th May, 2008’.

In course of hearing of the contempt application, Mr. Tewari, learned senior advocate appearing for the alleged contemnors placed before this Court a status report issued by the Assistant Director (Administration) along with its annexures. The same was taken on record and a copy of the same was handed over to Mr. Dutta, learned senior advocate appearing for the petitioners herein. An exception to the status report has been filed by the petitioners and the same, as placed, is taken on record.

Drawing our attention to the exception filed in the form of an affidavit, Mr. Dutta contends that as per the memo dated 28th May, 2008 along with the CCS Pension Rule of the Government of India, the basic pension of the petitioners ought to have been calculated as 50% of the basic pay of the petitioners at the time of their retirement. The pension payment orders issued to the petitioners reflect a pension amount that falls short of the

mandated 50% of the last drawn basic pay. Such contumacious exclusion has resulted in the denial of consequential pensionary and other retirement benefits *viz.* gratuity, leave encashment, commutation value etc.

He submits that other retired employees, similarly situated with the petitioners, have been extended the pensionary benefits calculating such pension on the basis of 50% of their last drawn basic pay. However, a different yardstick has been applied in respect of the petitioners herein and the authorities have acted discriminatorily and in blatant violation of the directions contained in the order dated 10th January, 2024 moreso when the special leave petition preferred challenging the said order has been dismissed by the Hon'ble Supreme Court.

He contends that in the application disposed of by the order dated 10th January, 2024, the petitioners urged the issue of discrimination as practiced and the erroneous fixation of pay and consequential curtailment of pensionary benefits in derogation to the provisions of the memo dated 28th May, 2008. The directions contained in the order are plainly self-evident and ought to have been taken into consideration by the alleged contemnors. In the said conspectus, appropriate directions need

to be issued for remedying and rectifying things done in violation of orders which may even include taking of restitutive measures at any stage of the proceedings. In support of such contention, reliance has been placed upon the judgment delivered in the case of *Baranagore Jute Factory PLC Mazdoor Sangh (BMS) Vs. Baranagore Jute Factory PLC*, reported in (2017) 5 SCC 506.

Mr. Tewari denies and disputes such contention of Mr. Dutta and submits that once a decision has been taken by a party to a proceeding on the basis of the direction passed by this Court, there arises a different cause of action to seek redressal in an appropriate forum and such action does not constitute contempt.

According to him, the issue, as urged by Mr. Dutta in the present contempt application, was neither averred in the application nor in the contempt notice issued by the petitioners. It is only after the status report was filed, the petitioners have urged an issue that the pensionary benefits have not been disbursed in consonance with the memo dated 28th May, 2008.

He submits that all the petitioners herein retired prior to issuance of the order dated 10th January, 2024 and it was not their case before this Court that though the benefits of the said memo have

been given and the pay has been revised and upgraded in terms of the memo dated 28th May, 2008, consequential pensionary benefits which ought to have been 50% of the basic pay have not been sanctioned.

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

While dealing with an application for contempt, the Court cannot traverse beyond the order, non-compliance with which is alleged. This would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings.

In paragraph 5 of the exception the petitioners have categorically stated that they have been '*duly accorded the benefits of the revised pay scale in terms of the Office Memorandum dated 28.05.2008 during their active service*'. From the documents on record, it appears that all the petitioners attained the age of superannuation prior to issuance of the order of this Court dated 10th January, 2024. However, discrepancies, as pointed out by Mr. Dutta as regards disbursement of the pensionary benefits were neither urged in the application being CAN 12 of 2022 nor in the contempt application. The dispute, as urged, pertaining to non-disbursement of the actual retirement benefits, in

our opinion, constitutes a different cause of action to seek redressal in an appropriate forum and such action does not constitute contempt.

In view thereof, the contempt application is dismissed.

However, it is made clear that dismissal of the contempt application shall not prevent the petitioners from claiming the pensionary benefits, as urged, by filing an appropriate application before the competent Court, 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.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)