

M.A. No. 786/08

In

CCA NO. 46/04

In

O.A. NO. 589/97

2.9.2008

Hon'ble Mr. Justice A.K.Yog, Member (J)

Hon'ble Mr. K.S. Menon, Member (A)

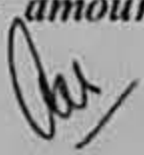
Heard Ms. Aparna Burman, Advocate, learned counsel for the applicant and Shri P. Mathur, Advocate, counsel for the respondents.

M.A. No. 786/08- filed on behalf of applicant-with the prayer to recall the order dated 9.4.2007 (dismissing the contempt application). Order dated 9.4.2007 passed by Bench has been reproduced in the affidavit of Saleem @ Kallu filed in support of Restoration Application. Aforesaid order shows that amount of Rs.5195/- was paid to the applicant (widow of deceased employee) on March 2007. Paras 4 and 5 of the 'Second Supplementary Counter Affidavit' filed in the Registry on 17.1.2006 reads:

- "4. That during the pendency of the present petition, the concerned Paying Branch of State Bank of India, Jaunpur has been advised to disburse the Exgratia payment to Smt. Masooma with effect from 1.1.1986 through Badshahpur Branch having her account NO. 12353 @ Rs.150/- plus relief and with effect from 1.11.1997 @ Rs.605/- plus relief by enclosing a chart of relief from 01.01.1986 to 01.11.1997 with a clear stipulation that no medical allowance is payable on the exgratia amount payment. A true Photostat copy of the letter dated 02.12.2005 alongwith copy of PPO dated 14.10.2005 is enclosed herewith the present second supplementary counter affidavit and is marked as Annexure SSCA-1 to the present Second Supplementary counter affidavit.
5. That in view of the affidavits already on record and the present second supplementary counter affidavit, it is abundantly clear that the Respondents have already complied with the order and judgment passed by this Hon'ble Tribunal in toto and nothing more is due to be paid to the applicant and as such the respondents have fully complied with the order passed by this Hon'ble Tribunal in true spirits".

Again para 6 of the supplementary rejoinder filed on behalf of applicant reads:

- "6. That even after the aforementioned judgment passed in Original Application NO. 589 of 1997 (Smt. Masooma Vs. Union of India and Others) Respondents has issued PPO NO. D/LKO/PEN/0186070187 dated 14.10.2005, in which an amount of 'Ex-Gratia Payment' is released for the Applicant/Petitioner, for amount Rs.605/- per month w.e.f. 01.11.1997.
But respondents have admitted about the date of missing (as deemed to be date of death) of applicant's husband was 19.8.1967. Then question does arise that how respondents have released Ex-Gratia Payment to the applicant, as a meager amount of Rs.605/- w.e.f. 01/11/1972.




therefore period of calculation must be from 19.8.1967 and it should not be wrongly calculated w.e.f. 1.11.1997. Hence, it is requested to this Hon'ble Tribunal that it may graciously be pleased to pass an order for release of full family pension to the applicant w.e.f. 19.08.1967, so the difference of the period from 19.8.1967 to 31.10.1997 be paid, which still remained outstanding.

A true copy of the abovementioned PPO dated 14.10.2005 is being filed herewith and is marked as Annexure SRA-1 to this supplementary rejoinder affidavit"

From the above pleadings brought on record on behalf of respective parties, it is clear that respondents did proceed to comply with the final order of the Tribunal in question. Now dispute arose on the behest of the applicant is that she has not been paid entire amount as claimed by her and that payment received by her is inadequate. Learned counsel for the applicant submits that when payment was made and applicant was aggrieved she has approached the Departmental Authority by filing representation dated 27.2.2006 (Photostat copy of the same is placed before us since it has not been brought on record). In view of above, it is clear that no case for invoking the contempt jurisdiction is made out and notices issued against respondents have rightly been discharged. In case applicant, in order to seek redressal of her grievance of short payment, has already been raised by filing representation (as indicated above). If contention of the applicant is accepted, it will amount to enter into the merit/demerit of the decision/calculation made by the respondents. Apparently, it is not within the scope of contempt jurisdiction. In view of the above, we find that no good reason to recall the order dated 9.4.2007. It is, however, made clear that dismissal of the contempt application will not prejudice the rights of the applicant (in any manner). In respect of she has already filed representation dated 27.2.2006 before Senior Divisional Finance Manager, Northern Railway, Hazaratganj, Lucknow (as noted above) if pending on date. Misc. Application NO. M.A. No. 786/08 is rejected.


A.M


J.M

Manish/-

3-9-06