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**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**



CPC.351/00062/AN/2021

Arising out of

O.A./351/868/AN/2021

M.A./351/303/AN/2021

Date of order: 19.07.2021

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. N. Chatterjee, Administrative Member**

YOHANNAN SANJEEVAN & OTHERS

VS.

UNION OF INDIA & OTHERS

[A&N Administration(Education)]

For the applicants : Mr. D.C. Kabir, counsel
Mr. P.C. Das, counsel
Ms. T. Maity, counsel

For the respondents : Mr. K. Rao, counsel
Mr. R. Halder, counsel

ORDER

Bidisha Banerjee, Judicial Member

Ld. counsels were heard.

2. The applicants in this O.A. inter alia assailed the impugned circulars dated 16.07.2021, 26.02.2021 and Minutes of the Meeting dated 29.05.2021 whereby and whereunder the HRA that they have been drawing for years together was directed to be recovered. A stay of the recovery was sought for pending final decision on the O.A.



3. As a prima facie case was made out, after a detailed hearing, the order on interim relief was reserved on 21.06.2021. The matter was posted for further hearing on 25.06.2021. On 25.06.2021 a detailed interim order granting stay till the next date of listing was pronounced. Ld. counsel for the respondents sought for time to file reply and so a reply was directed to be filed by 4 weeks and matter was directed to be listed for hearing on a subsequent date.

4. Meanwhile the respondents despite their full knowledge about the O.A., issued vouchers imposing recovery from the salary for June'21. They continued with the recovery despite the restraining order of the Tribunal.

5. The applicants preferred contempt petition alleging violation of the order dated 25.06.2021 whereby this Tribunal stayed recovery.

6. The contempt petition was listed on 16.07.2021. Ld. counsel Mr. D.C. Kabir leading Mr. P.C. Das placed the vouchers prepared on 28.06.2021 and 02.07.2021 imposing recovery after pronouncement of the stay order by this Tribunal on 25.06.2021 and alleged that there was deliberate and contumacious violation of the directions of this Tribunal by the alleged contemnors/respondents. Ld. counsel for the petitioners strongly opposed the attempts on the part of the alleged contemnors through subterfuge to

undermine the dignity of this Tribunal in their deliberate defiance of its stay order.



7. In view of the fact that on 16.07.2021 Id. counsel Mr. K. Rao appearing for the alleged contemnors could not justify preparation of vouchers imposing recovery in utter disregard and violation of the stay order granted by this Tribunal, Id. counsel was directed to obtain assurance from the alleged contemnors that no recovery would be made in the month of July and to come back with his instructions today. Today upon instructions, Id. counsel would submit that a W.P.C.T. has been preferred against the stay order of this Tribunal and that the WPCT would come up for hearing on 26.07.2021, and attempted to portray that even before filing WPCT before the Hon'ble High Court they were at liberty to violate the stay order of this Tribunal.

8. To counter such argument, Id. counsel for the applicants/petitioners would place the decision of the Hon'ble Apex Court in ***Madan Kumar Singh(Dead) through Lrs. Vs District Magistrate, Sultanpur, (2009) 9 SCC 79,*** paragraph 20 of which reads as under:-

"20. It is trite to say that mere filing of a Petition, Appeal or Suit, would by itself not operate as stay until specific prayer in this regard is made and orders thereon are passed."

9. Having noted such deliberate and conscious move on the part of the alleged contemnors/respondents in issuing vouchers imposing recovery in

violation of the stay order of this Tribunal and in view of the extract supra, we

direct the alleged contemnors to file a compliance report by 27.07.2021.



List on 27.07.2021.

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(Dr. N. Chatterjee)
Administrative Member

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A rectangular box containing a signature, likely of Bidisha Banerjee, the Judicial Member.

(Bidisha Banerjee)
Judicial Member