

Balbir Singh Vs. K.S. Mehra and ors.

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Court : Delhi

Decided On : Mar-25-2010

Judge : Shiv Narayan Dhingra, J.

Acts : [Payment of Gratuity Act, 1972](#) - Section 7(3A)

Appeal No. : Cont. Cas. (C) No. 315 of 2008

Appellant : Balbir Singh

Respondent : K.S. Mehra and ors.

Advocate for Def. : Ajay Arora, Adv.

Advocate for Pet/Ap. : Ali Naqvi, Adv.

Disposition : Petition dismissed

Judgement :

Shiv Narayan Dhingra, J.

1. By this petition, the petitioner has alleged deliberate violation of order dated 19th July, 2007 passed by this Court in W.P. (C) No. 219 of 1999. The operative part of the order reads as under:

In the absence of any plausible explanation from the side of the respondent for not completing the enquiry proceedings for a period of about 20 years, this Court has

no option but to quash the charge-sheet and further proceedings which have taken place against the petitioner.

Counsel for the petitioner in the petition has also claimed for the release of post retirement benefits to the petitioner with interest @ 18% p.a. from the date when the same became due with special costs/damages. Counsel for the respondent submits that the post retirement benefits have already been allowed to him in terms of his entitlement. In case, the post retiral benefits have not been paid to the petitioner till date then the same shall be released in favour of the petitioner within a period of two months from the date when the same became due with upto date interest @ 12% p.a.

2. It is not disputed that the petitioner has been paid the arrears and other benefits including post retiral benefits along with 12 per cent interest as directed by this Court, however, contention of the petitioner is that these arrears and other dues were paid in piecemeal manner and they were not paid within two months' period and the interest was calculated by the respondents @ 12 per cent per annum simple interest. He states that the petitioner was entitled to compound interest and not simple interest. He relied upon K.L. Kohli v. Shri Prakash W.P. (C) No. 5303 of 2008 decided on 11th November, 2008 whereby this Court noted as under:

While allowing the above claim of the petitioner, the Tribunal awarded 12% interest. It was not made clear by the Tribunal whether the interest was 12% compounded or 12% simple.

After noting of the position, the court noted as under in paragraph 9:

In our view, the petitioner is entitled to 12% interest compounded annually.

3. The petitioner also relied on H. Gangahanume Gowda v. Karnataka Agro Industries Corporation Limited : (2003) 3 SCC 40 to press the point that in case of payment of gratuity under Sub-section 3A of Section 7 of Payment of Gratuity Act, it was mandatory for the employer to pay gratuity within time and to pay interest on delayed payment. The petitioner submitted that he was entitled to interest on gratuity in terms of provisions of [Payment of Gratuity Act, 1972](#) and he was also

entitled to further 12 per cent compound interest as awarded by the court. He also submitted that though the petitioner was facing an inquiry but the respondents had not followed the procedure of sealed cover, which was mandatory and to press this point, he relied upon *Union of India v. K.V. Jankiraman* : 1991 (3) SCR 790.

4. It is settled law that while dealing with an application for contempt, the court is only concerned with the question whether the order has been complied with or not. It is not permissible for the court to examine the correctness of the earlier decision or to vary the earlier order or to issue additional directions neither the court can take a view different from what had been taken in the decision *Ref: State of Bihar and Ors. v. Rajinder Singh and Anr.* : 2004 (7) Scale 114.

5. The order dated 19th July, 2007 has to be read as it could be read and understood by an ordinary person. The respondents cannot be held guilty of contempt if the respondents gave effect to the order as is understood from its plain reading. The order provided that the respondents should pay 12 per cent interest to the petitioner over the unpaid dues. The order did not provide that the respondents were to pay compound interest. The judgments cited by the petitioner are not the judgments given in contempt proceedings. If the petitioner wanted any clarification whether the interest payable was simple or compound, petitioner was at liberty to approach the writ court that passed the order. The petitioner cannot take a plea that the respondents were guilty of contempt because they did not give compound interest and instead gave simple interest.

6. I also find no force in the contention that the respondents were guilty of contempt because they did not follow sealed cover procedure. There were no directions given to the respondents by above order to follow sealed cover procedure. A petition under contempt of court does not lie because the respondents had violated statutory provisions. If the respondents are to be held guilty of contempt for violating different statutes then there was no necessity for the petitioner to approach writ court and obtain orders against the respondents. A respondent can be held guilty of contempt only if he had deliberately not complied with a direction given by the court. The respondents cannot be held guilty for contempt of court on giving wider meaning and interpretation to the orders which

are not reflected by plain reading of the order.

7. I find no force in the petition. The petition is hereby dismissed.

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