

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONTEMPT PETITION (C) NO. 347 OF 2009 IN Civil Appeal 2485/2009

CHANDRAKANT SHASTRI

Petitioner(s)

VERSUS

SHIKHA DUBEY AND ANR.

Respondent(s)

Date: 23/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.S.K.Dubey, Sr.Adv.
 Ms. Pragati Neekhara, Adv.
 Mr.Suryanarayana Singh, Adv.
 Mr.Karan Dewan, Adv.

For Respondent(s) Mr.Gopakumaran Nair, Sr.Adv.
 Mr. T.G. Narayanan Nair, Adv.
 Mr.K.N.Madhusoodhanan, Adv.
 Mr.C.N.Sreekumar, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties and perused the record.

While disposing of batch of petitions filed by the Madhya

Pradesh State Cooperative Dairy Federation Limited and its employees, this Court had maintained the order passed by the High Court for reinstatement of the employees and directed that they would be entitled to 50% of back wages instead of 20% ordained by the High Court.

The order passed by this Court was became available to respondent No.1 well before 20.06.2009 because on that day she passed an order (Annexure P-3), the relevant portion of which are

2

extracted below :-

"Sub"-Directives regarding salary and others of the employees/ officers in compliance to Hon'ble Supreme Court order dated 15-4-09

In compliance to decision delivered on 15-4-09 by the Hon'ble Supreme Court, New Delhi in SLP No.25505:7 filed by MPCDF and others against Shri R K Jamindar and others and all other SLPs on similar subject, the payment of back wages of concerned officers/employees would be kept pending till the decision of Review petition filed in the Hon'ble Supreme Court.

Besides the above the following directives are issued

for other payable emoluments.

1. Increments:

There will not be eligibility of increments for the period from the date of compulsory retirement and coming back in service.

2. Gratuity:

The calculation of the gratuity of the officers/employees will be done till the completion of superannuating of age but recovery of already paid gratuity amount be made.

3. Earned Leave, Medical Leave & Earned Leave Encashment

There will not be eligibility of earned Leave, Medical Leave and Earned Leave encashment from the date of compulsory retirement till coming back in service. Ensure making entries into Service Books of officers/employees regarding their increments, earned Leave and Earned leave encashment on aforesaid directives.

4. Implementation of fifth pay Scale w.e.f. 1.1.06; the

cash benefit has been given w.e.f.01.11.06 in MPCDF. The fixation of pay of the officers employees in 5th pay scale be done later to aforesaid date after submission of their option.

5. The payment of Gratuity and leave encashment be ensured to those officers/employees who have completed their superannuating age."

In response to the notice issued by this Court on the Contempt Petition filed by the petitioner, an affidavit was filed by Shri Ashok Kumar Sukul, Deputy General Manager (Admn.), Madhya Pradesh State Cooperative Dairy Federation Limited. Along with the affidavit, Shri Sukul has placed on record two documents marked as Annexure R-1 and R-2. Annexure R-2 is a statement depicting the

3

amount paid to the petitioner towards gratuity, leave encashment and back wages.

Since respondent No.1 did not file affidavit in response to the notice issued by the Court, she was directed to do so.

In compliance of the second direction given by the Court, respondent No.1 has filed affidavit some time in July, 2010 which has not been verified on oath.

In paragraphs 6 and 15 of unverified affidavit, the respondent has made the following averments :-

"6. As this Hon'ble Court had already passed a decree in the Civil Appeal the appropriate remedy for the petitioner would have been to take steps in accordance with the provisions of Order XIII Rule 6 of the Supreme Court Rules, 1966:

ORDER XIII
JUDGMENTS, DECREES AND ORDERS
XXXXXXXXXXXXXXXXXXXX

6. The decree passed or order made by the Court in every appeal, and any order for costs in connection with

the proceedings therein, shall be transmitted by the Registrar to the Court or Tribunal from which the appeal was brought and steps for the enforcement of such decree or order shall be taken in that Court or Tribunal in the way prescribed by law.

15. In the facts and circumstances of the present case the Contempt Petitions filed for the purpose of enforcing the decree of this Hon'ble Court is an abuse of the process of court and the petitions are liable to be dismissed with exemplary costs."

We have heard Mr.S.K.Dubey, learned senior counsel appearing for the petitioner and Mr.Gopakumaran Nair, learned senior appearing for respondent No.1 invited Court's attention to order dated 20.06.2009 passed by respondent No.1 to show that in violation of the direction given by the Court, respondent No.1 intentionally declined that the petitioner will not be entitled to
4
increment for the period between the date of compulsory retirement and the date of actual reinstatement. According to Mr. Dubey, the amount specified in Annexure R-2 and the document marked as Annexure R-4 filed with the affidavit of respondent No.1 does not indicate the element to which the petitioner became entitled between 2002 when he was compulsory retired and the date of reinstatement.

Learned counsel for respondent No.1 could not show that the increments falling due between the aforesaid period had been added to the total emoluments payable to the petitioner.

In view of the above, we take cognizance against respondent No.1, rejecting her affidavit with the direction to her to file affidavit in response to the notice to show cause as to why she may not be punished for deliberate violation of the order passed by this Court on 15.04.2009.

List the case on September 20, 2010 on which date respondent No.1 shall appear in person. The affidavit on behalf of respondent No.1 be filed within four weeks from today.

List the case along with Contempt Petition(c) No. 32 of 2010 in Civil Appeal No.2506/2009, Contempt Petition (c) No. 33 of 2010 in Civil Appeal No.2526/2009, Contempt Petition(c) No. 38 of 2010 in Civil Appeal No.2487/2009, Contempt Petition (c) No. 40 of 2010

in Civil Appeal No.2508/2009, Contempt Petition(c) NO. 41 of 2010
in Civil Appeal No.2509/2009, Contempt Petition (c)No. 43 of 2010
in Civil Appeal No.2510/2009, Contempt Petition (c) No. 44 of 2010
in Civil Appeal No.2511/2009, Contempt Petition (c) NO. 45 of 2010

5

in Civil Appeal No.2512/2009, Contempt Petition (C)No. 46 of 2010
in Civil Appeal No.2513/2009, Contempt Petition (C)No. 47 of 2010
in Civil Appeal No.2514/2009, CONMT.PET.(C) NO. 48 of 2010 in Civil
Appeal No.2515/2009, CONMT.PET.(C) NO. 49 of 2010 in Civil Appeal

No.2516/2009, CONMT.PET.(C) NO. 50 of 2010 in Civil Appeal
No.2517/2009, CONMT.PET.(C) NO. 51 of 2010 in Civil Appeal
No.2518/2009, CONMT.PET.(C) NO. 52 of 2010 in Civil Appeal
No.2519/2009, CONMT.PET.(C) NO. 53 of 2010 in Civil Appeal
No.2520/2009, CONMT.PET.(C) NO. 54 of 2010 in Civil Appeal
No.2521/2009, CONMT.PET.(C) NO. 55 of 2010 in Civil Appeal
No.2522/2009, CONMT.PET.(C) NO. 56 of 2010 in Civil Appeal
No.2523/2009, CONMT.PET.(C) NO. 57 of 2010 in Civil Appeal
No.2524/2009 and CONMT.PET.(C) NO. 58 of 2010 in Civil Appeal
No.2525/2009.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master