

RAJASTHAN HIGH COURT
HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5408/2023

Ram Swaroop Sharma S/o Shri Bhanwar Lal Sharma

-----Petitioner

Versus

State Of Rajasthan & Ors.

-----Respondents

For Petitioner(s) : Mr. Tanmay Dhand

For Respondent(s) : Mr. Akshay Sharma, AGC

HON'BLE MR. JUSTICE SAMEER JAIN

Order

19/02/2024

The instant petition is filed for effectuating compliance of the award passed in favour of the petitioner by the learned Labour Court, which has forthwith been upheld by the Co-ordinate as well as Division Bench of this Court and also, the Hon'ble Apex Court.

In this background, learned counsel for the petitioner submitted that without following the due procedure of law, the petitioner was terminated from service by the respondent-State on 07.05.2015. Being aggrieved, the petitioner approached the learned Labour Court, whereby vide order/award dated 07.02.2020, the learned Labour Court directed the respondent-State to reinstate the petitioner in service along with payment of back-wages to the tune of 50%. The relevant extract of the award/order dated 07.02.2020 is reproduced herein-under:-

“परिणामतः प्रेषित विवाद उत्तरित किया जाकर पंचाट इस आशय का पारित किया जाता है कि अप्रार्थी सं. (1) जिलाधीश, जयपुर जिलाधीश कार्यालय, बनीपार्क, जयपुर एवं उपखण्ड अधिकारी, दूदू तह. दूदू जिला जयपुर द्वारा प्रार्थी श्रमिक श्री रामस्वरूप शर्मा पुत्र श्री भंवर लाल शर्मा निवासी सारंगपुरा, तह. सांगानेर, जयपुर को

दिनांक 07.05.2015 से सेवा मुक्त किया जाना अनुचित तथा अवैध है। प्रार्थी श्रमिक श्री रामस्वरूप शर्मा सेवा की निरन्तरता के साथ पुनः सेवा में बहाल होने एवं पिछले वेतन के रूप में सेवामुक्ति दिनांक 07.05.2015 से 50 प्रतिशत वेतन राशि प्राप्त करने का अधिकारी है।

पंचाट की एक प्रति राज्य सरकार को नियमानुसार सूचनार्थ एवं प्रकाशनार्थ प्रेषित की जाए।

पंचाट आज दिनांक 07.02.2020 को सरे-इजलास लिखाया जाकर सुनाया गया।”

However, being aggrieved of the said award/order, the respondent-State assailed the same before the Co-ordinate Bench of this Court. The said petition came to be dismissed vide order dated 06.01.2021. Subsequently, a further challenge was raised before the Division Bench by way of an appeal. The said appeal also came to be dismissed by the Hon'ble Division Bench on 12.11.2021.

Furthermore, acting as a compulsive litigant, the respondent-State approached the Hon'ble Apex Court by way of a SLP. However, the said SLP was also dismissed vide order dated 11.11.2022 and as a result, the award/order dated 07.02.2020 was maintained and the directions contained therein i.e. reinstatement of the petitioner and the payment of back-wages to the extent of 50%, were reiterated to be complied with expeditiously.

Despite the controversy qua the petitioner's termination having been settled by all possible forums, the petitioner in spite of a lapse of a considerable period of time, has been compelled to await realization of the fruits of the award/order dated 07.02.2020, as passed by the learned Labour Court. Therefore, apart from filing the instant petition for effectuating compliance, the petitioner has also taken recourse under Section 29 of the



Industrial Disputes Act, 1947, claiming initiation of proceedings against the responsible and/or erring officers.

In this backdrop, after having taken a cumulative note of the proceedings initiated in the matter, including the dismissal of the respondent-State's SLP by the Hon'ble Apex Court, this Court vide orders dated 22.01.2024 and 29.01.2024, directed the respondent-State to expeditiously effectuate compliance of the award passed by the learned Labour Court, which had finality in the Year 2022.

During the course of arguments, learned counsel for the respondent-State supplied and/or handed over a Demand Draft dated 13.02.2024 to the counsel for the petitioner, for the payment of back-wages, in compliance of the award/order dated 07.02.2020, which was further confirmed by the Hon'ble Apex Court in the Year 2022.

However, qua reinstatement, no compliance has been effectuated till date.

Learned counsel for the petitioner has submitted that despite having limited financial means, the petitioner has been compelled by the respondent-State to run from pillar to post, to realize the fruits of the award passed in his favour in the Year 2020, which was also confirmed by the Hon'ble Apex Court in the Year 2022. Citing the hardship caused to the petitioner and also the inadvertent delay on part of the respondent-State, learned counsel advanced a case for cost, placing reliance upon the dictum of the Hon'ble Apex Court as enunciated in ***State of Rajasthan & Ors. Vs. Gopal Bijawat (Special Leave to Appeal (C)***



No.3398/2024 whereby a cost of Rs.10,00,000/- was imposed upon the State.

In this cumulative background, this Court deems it appropriate to note that the respondent-State, as opposed to advancing steps for effectuating compliance of the award/order passed in the Year 2020, has acted as a compulsive litigant on frivolous grounds and thereafter, even pursuant to the *lis* attaining finality in the Year 2022, has withheld compliance for a considerable period of time. Therefore, looking to the lethargic and callous approach adopted by the State, this Court deems it fit to make out a case for judicial intercession.

As a result, we direct the Chief Secretary for the State, to mark his appearance before the Court on 21.02.2024, either physically or virtually, as he deems fit. The said order is passed on account of the compelling reason of non-compliance of the order passed by the Hon'ble Apex Court and going against the spirit of Article 141 of the Constitution of India.

However, it is made clear that the appearance of the Chief Secretary shall be relaxed, if compliance in *toto* of the award dated 07.02.2020 is made before the said date.

A copy of this order be sent to the Chief Secretary by the Registrar (Judl.).

List on 21.02.2024.

(SAMEER JAIN),J