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**(2010) 09 AHC CK 0175**

**In the Allahabad High Court**

**Case No :** Contempt Application (Civil) No. 915 of 2000

Diwakar Dauhalia

APPELLANT

Vs

Gopilal Yadav and Others

RESPONDENT

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**Date of Decision :** 21-09-2010

**Acts Referred:**

**Citation :** (2010) 09 AHC CK 0175

**Hon'ble Judges :** Shashi Kant Gupta, J

**Bench :** Single Bench

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## **Judgement**

Shashi Kant Gupta, J.—Heard learned Counsel for the applicant, learned Counsel for the opposite party Nos. 5 and 6 and perused the record.

2. Compliance affidavits have been filed by the opposite party Nos. 5 and 6 which are taken on record.

3. The averments made in paragraphs 3, 4, 5, 6, 7, 8, 9 and 11 of the compliance affidavit filed by Dharendra Pratap Singh, opposite party No. 6 reads as follows;

3. That after service of the judgment and order dated 8.12.1999 the applicant has not turned up to work in the society hence on 27.1.2007 a notice has been issued to the applicant which has been received by him. The copy of the same has already been annexed along with the affidavit filed in February, 2009 by the Secretary, Respondent No. 5.

4. That on 19.4.2007 a registered notice has been issued to the applicant which has been personally received by the applicant on 20.4.2007 and the copy of the same has already been annexed as Annexure: 3 to the affidavit filed earlier by the secretary respondent No. 5.

5. That thereafter the applicant joined on 21.4.2007 and signed the attendance register only on 21st, 22nd, 23rd and 24th of April, 2007 and since 24.5.2007 he again remained himself absented. The copy of the attendance register has

already been annexed along with the earlier affidavit filed by the respondent No. 5.

6. That on 18.1.2010 the statement has been made by the counsel on the instruction of respondent No. 5 that the society is still ready to take joining of the applicant if he comes to join.

7. That the applicant has submitted his joining on 26.1.2010 and ultimately the same has been accepted and work has been allotted to the applicant. A copy of the same has already been annexed along with the affidavit filed in February, 2009 by the respondent No. 5.

8. That since the date of joining the salary to the applicant is continuously being paid.

9. That vide Judgment and order dated 8.12.1999 the Hon''ble Court was pleased to direct the respondents to comply with the orders dated 16.9.1993, 5.10.1993 and 17.8.1995 passed by the District Assistant Registrar, Cooperative Societies, U.P. Jalaun by the District Assistant Registrar, Cooperative Societies, U.P. Jalaun has directed the respondents to take work from the applicant and pay him stopped salary.

11. That in pursuance of the judgment and order dated 8.12.1999 the petitioner has already been permitted to join on 26.1.2010 and since then he is continuously being paid his salary and so far the arrears of salary is concerned a cheque of Rs. 92,598/- from December, 1994 to December, 1999 has been issued by the Joint Signatures of the Chairman and Secretary of the society in question. Thus, the judgment and order dated 8.12.1999 has fully been complied with. For kind perusal of this Hon''ble Court a photostat copy of the cheque issued to and received by the applicant is being filed herewith and marked as ANNEXURE: 1 to the affidavit.

4. On the basis of aforementioned facts, learned Counsel for the opposite parties stated that the judgment and order of this Court has been complied with.

5. Per contra, learned Counsel for the applicant has stated that the applicant has worked for quite a number of days between 8.12.1999 and 26.1.2010 but he has been denied salary for the said period. To this, learned Counsel for the opposite parties has stated that the applicant has already been paid salary for the period he had worked.

6. Be that as it may, the learned Counsel for the applicant has raised disputed questions of facts which, in the opinion of the Court, cannot be decided in the contempt jurisdiction. Moreover, the substantial compliance of the order of the Writ Court has been made and the applicant has also been given a cheque of Rs. 92,598/- towards arrears of salary for the period between December, 1994 and December, 1999. In case, the applicant is still aggrieved on account of non-payment of his salary, he may approach the appropriate forum for redressal of his grievance.

7. Accordingly, no further consideration is required in this contempt application. Notice issued to the opposite parties stands discharged. The contempt application is consigned to record.