

(2018) 10 J&K CK 0001

In the Jammu And Kashmir High Court

Case No : Contempt Petition No. 268 Of 2016, IA Nos.1 Of 2016, 1, 2, 3, 4 Of 2018, Service Writ Petition No. 1265, 1657, 787 Of 2016, IA No. 1 Of 2016, 1 Of 2017, 1 Of 2018

Narinder Khajuria and other @APPELLANT@Hash Gazzanfar Hussain and others

Date of Decision : 01-10-2018

Acts Referred:

Citation : (2018) 10 J&K CK 0001

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Sachin Sharma, Vishal Bharti

Judgement

This petition is for initiating contempt proceedings against the respondents for willful disobedience and non-compliance of the interim order dated 03.03.2016 in SWP No.432/2016, whereby the respondents were directed to consider the case of the petitioners for regularization as also for release of the due wages in their favour as shall be permissible under law.

The respondents have filed compliance report indicating therein that part of wages of the petitioners have been disbursed, however, for the rest of the amount, the matter has been taken up by the administrative department with the Finance Department and as soon as the funds are made available by the finance department, the wages of the petitioners shall be released.

During the course of arguments, learned counsel for the petitioners, however, brought to the notice of this Court that the Finance Department Vide OM No.FD-VII-22(01)II-06-07 dated 28.09.2018 has already placed at the disposal of the Chief Engineer, PHE, Jammu, a sum of Rs.1187.50 lakh under the head 364-Wages(outsourcing). On the strength of the aforesaid communication of the Finance Department, learned counsel for the petitioners states that the Chief Engineer, PHE is now vested with enough funds to meet the liability on account of wages of the petitioners.

Learned counsel for the respondents, however, submits that the aforesaid funds have been placed at the disposal of the Chief Engineer only for the purpose of releasing wages of such daily wagers only who have been paid for 12 months upto march, 2016 and are not meant for meeting the liability, if any, in terms of the orders passed in the pending cases in the Courts. The communication, on the face of it, is contemptuous in nature. The department of finance is well aware that the wages of the petitioners in this petition and others petitions are payable in terms of the directions passed by this Court and request in this regard too has been received by the Finance Department from the administrative department of the PHE, yet while releasing the funds, a stipulation has been made in the releasing order, which necessitates impleadment of the Principal Secretary to Govt., Finance Department, Civil Sectt., Srinagar as party respondent in this contempt petition.

Accordingly, Principal Secretary to Govt., Finance Department, J&K Govt., Civil Sectt., Srinagar is impleaded as party respondent.

Registry to issue notice to the Principal Secretary to Govt., Finance Department to explain his position as to why the request of the administrative department of the PHE Department for release of wages has not been accepted and why in the OM No.FD-VII-22(01)II-06-07 dated 28.09.2018 a stipulation has been made that wages shall be released to such daily wagers only who have been paid for twelve(12) months upto March, 2016 and not to those where Court cases are pending.

At this stage, Mr. K.D.S.Kotwal, learned GA accepts notice on behalf of the Principal Secretary to Govt., Finance Department. He shall file his response within four weeks.

In the meanwhile, the Chief Engineer, PHE, Jammu shall disburse the wages of the petitioners as are found due to them from out of the funds placed at its disposal vide communication dated 28.09.2018 within a period of four weeks. It is further made clear that in case the wages of the petitioners are still not released, the Chief Engineer, PHE, Jammu shall appear in person and shall not withdraw his salary for the month of October, 2018.

Since the order of this Court could not be complied with by the respondents herein due to in action on the part of the Finance Department, as such, it would serve no purpose by stopping the salary of the Executive Engineers, as was directed by this Court on 04.07.2018. Accordingly, order dated 04.07.2018 is modified. Salary of the Executive Engineers, whose salary was stopped vide order dated 04.07.2018, shall be released.

List this contempt petition along with connected matters on 05.11.2018.

Copy of this order be supplied to the learned counsel for the parties under the seal and signatures of the Bench Secretary.