

(2010) 01 BOM CK 0003

In the Bombay High Court

Case No : O.O.C.J. Notice of Motion No. 225 of 2008 in Writ Petition No. 2744 of 2002

S. Gopalkrishnan (Capt.)

APPELLANT

Vs

Collector, Chennai and others

RESPONDENT

Date of Decision : 13-01-2010

Acts Referred:

Citation : (2010) 125 FLR 600

Hon'ble Judges : J.H. Bhatia, J;F.I. Rebello, J

Bench : Division Bench

Advocate : S.C. Naidu instructed by C.R. Naidu and Co, for the Appellant; R.M. Pardiwala instructed by . Mulla and Mulla, Craigie Blunt and Caroe, for the Respondent

Judgement

F.I. Rebello and J.H. Bhatia, JJ.—The Central Government, Labour Court, Mumbai, by order dated 13.5.1999, had passed an order and directed the respondents to pay an amount of Rs. 6,56,000/- to the petitioner towards salary and other entitlements. Accordingly, the Regional Labour Commissioner (Central), Mumbai, had issued a Requisition Certificate for recovery of the said amount from M/s. NEPC Airlines. The respondent No. 1-Collector forwarded the said Recovery Certificate to respondent No. 2 Tahsildar for recovery of the amount. However, as the respondent No. 2 had not taken any action, the petitioner filed the petition seeking certain directions. That petition is pending. However, on 13.2.2003, this Court directed the respondent No. 2 to forward the Recovery Certificate to respondent No. 1 Collector for recovery of the amount of Rs. 6,56,000/- with interest at 12% per annum from respondent Nos. 3 to 6. The said order was challenged by respondent Nos. 4 to 6 before the Supreme Court in Special Leave Petition. By the order dated 1.8.2003, the Supreme Court stayed the

recovery proceedings subject to condition that the petitioners therein i.e. Respondent Nos. 4 to 6 before this Court deposit the amount sought to be

realised in the Bombay High Court within four weeks. Admittedly, the amount was not deposited and, therefore, the stay order did not continue. In spite of that the amount has not been recovered.

By this Notice of Motion, the petitioner seeks certain directions against the respondent Nos. 4 to 6. The respondent Nos. 4, 5 and 6 have filed their affidavits disclosing their income and property. Respondent No. 4 - Raviprakash Khemka is still working as Director of M/s. NEPC India Ltd. at Chennai and he has disclosed his income as Rs. 37,00,000/- from his employment, trade or profession. It is conceded that his salary is about Rs. 3,00,000/- per month.

2. The learned Counsel for the respondent Nos. 4 to 6 tried to contend that the amount cannot be recovered from the respondent Nos. 4 to 6 because the liability to pay the amount is with the Company i.e. Respondent No. 3. However, that question can be considered only -while deciding the Writ Petition finally. Fact remains that this Court had given directions to respondent Nos. 3 to 6 to pay the amount and respondent Nos. 4 to 6 had challenged that order before the Supreme Court wherein the Supreme Court had also directed them to deposit the said amount within a period of four weeks. After that the amount was not deposited but the SLP was withdrawn and the petition was dismissed accordingly. Thus, the order passed by this Court has become binding. The Central Government Labour Court had directed the respondents to pay amount of Rs. 6,56,000/-. That order or the Recovery Certificate does not speak anything about the interest thereon. It appears that in the order dated 13.2.2003, passed by this Court, a direction was given to recover the amount of Rs. 6,56,000/- with interest at 12% per annum. The learned Counsel for the respondents contended that interest could not be directed to be recovered by this Court, particularly when it was not awarded by the Labour Court which had passed the order which is sought to be executed.

3. Taking into consideration the above facts and the income of the respondent No. 4 - Raviprakash Khemka, in our opinion, the following order will meet the ends of Justice -M/s. NEPC India Ltd., 36, Wallajah Road, Chennai-600 002 is directed to deduct an amount of Rs. 75,000/- per month from the salary of respondent No. 4 - Raviprakash Khemka and to deposit the same with this Court till the amount of Rs. 6,56,000/- is fully recovered. Notice of Motion stands disposed of accordingly.