(2015) 06 PAT CK 0022

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 16274 of 2014

Sheopujan Singh APPELLANT

Vs

Union of India and Others RESPONDENT

Date of Decision : 24-06-2015

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2016) LabIC 87

Hon'ble Judges : I.A. Ansari, J;Chakradhari Sharan Singh, J

Bench : Division Bench

Advocate : Gopal Krishna Agrawal and Kumar Ravish, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Chakradhari Sharan Singh, J.

1. We have heard the petitioner, who has appeared, in person, as well as learned counsel appearing on behalf of the respondents.

2. An order, dated 28.05.2014, passed by the Central Administrative Tribunal, Patna Bench (hereinafter referred to as the ''Tribunal'') in Review Application, i.e., R.A. No. 8 of 2011 (Sheopujan Singh @ Dr. S.P. Singh v. Union of India and Others) arising out of an order dated 28.09.2010, passed by the Tribunal in O.A. No. 92 of 2006 (Sheopujan Singh @ Dr. S.P. Singh v. The Union of India and Others), is under challenge in the present writ application under Article 226 of the Constitution of India. The said order, dated 28.09.2010, passed in O.A. No. 92 of 2006, has also been challenged in the present writ application.

3. From the orders under challenge and the pleadings in the writ application, it appears that the petitioner, upon retirement, as Principal, Kendriya Vidyalaya Sangathan, filed a series of cases and, at times, it baffled us as to for what purpose and in what circumstance, he filed several applications, before the Tribunal, seeking almost same relief.

4. The petitioner had filed O.A. No. 92 of 2006 seeking certain reliefs as described in Paragraph 8 of the said application. The learned Tribunal noticed that for the similar relief, O.A. No. 08 of 2002 had been filed by the petitioner, which was disposed of, along with another O.A. No. 15 of 2000, which was also filed by the petitioner, by an order, dated 01.09.2004.

5. A plea was raised before the learned Tribunal by the respondents that said O.A. No. 92 of 2006 was, therefore, barred by res judicata. It also appears that the respondents, in their written statement, had taken a plea that O.A. No. 92 of 2006 involved plural remedies and, therefore, hit by Rule 10 of the "Central Administrative Tribunal (Procedure) Rules". It was observed in course of hearing by the Tribunal, on 03.05.2006, to modify the reliefs, but the petitioner refused to do so and insisted that the reliefs were not hit by the said Rule 10 of "Central Administrative Tribunal (Procedure) Rules". In O.A. No. 92 of 2006, the petitioner had sought for following reliefs:--

"1. The respondents be directed to pay all the retrial and admitted dues without any deduction, that is the amount of Rs. 1,00,364.00 illegally withheld by the respondents should be released and paid.

2. The respondents be directed to pay the T.A. bills amounting to Rs. 70,120.00 illegally withheld by them.

3. The respondents be directed to pay double shift Allowance/Honorarium/ remuneration by any nomenclature given by them.

4. The respondents be directed to add, calculate and pay the Daily Allowance @ Rs. 86/- per day in leave encashment.

5. The respondents be directed to pay the difference of amount wrongly calculated by them.

6. The respondents be also directed to pay suitable interest with regard to all retrial and admitted dues since the date of their falling due to the date of actual payment.

7. The respondents are directed to provide calculation papers of each amount arrived at for verification of its correctness."

6. The learned Tribunal noticed that the reliefs mentioned in Serial Nos. 1 to 6, as above, were the same, as had been sought for in O.A. No. 08 of 2002. As a matter of fact, the reliefs, sought for in O.A. No. 08 of 2002, has been quoted in the order of the Tribunal passed in O.A. No. 92 of 2006.

7. Alleging violation of an interim order passed by the Tribunal in O.A. No. 15 of 2000, dated 16.11.2000, the petitioner had filed C.C.P.A. No. 57 of 2001 before the Tribunal. The issue, as regards the alleged illegal deduction of Rs. 1,00,364/- (Rupees One Lac Three Hundred Sixty Four), was also considered by the learned Tribunal, while passing a final order in C.C.P.A. No. 57 of 2001 and the common order in O.A. No. 15 of 2000 and O.A. No. 08 of 2002. We consider it apt to refer

to the reliefs sought for by the petitioner in O.A. No. 15 of 2000 and O.A. No. 08 of 2002, which are as follows and have been quoted in the order passed by the learned Tribunal dated 28.09.2010:--

"O.A. No. 15/2000

"1. That the respondents be directed to pay the arrears of retiral dues, namely, Gratuity, Group Insurance Scheme, Balance amount of General provident Fund, Leave Encashment, Pension and other admitted dues, namely - Arrears of salary since 1.7.1995 to 31.10.1995 and 1.1.1996 to 16.01.1996, Arrears of daily allowance during the period of deputation (29.7.95 to 30.09.95 and 26.01.1997 to 31.01.1997), TA and LTC, Arrears of double shift allowance for the period January, 1996 to January, 1997."

O.A. No. 08 of 2002

"(i) That the respondents be directed to pay all the retiral and admitted dues without any deduction, that is the amount of Rs. 1,00,364/- withheld by the respondents should be released and paid.

(ii) That the respondents be directed to pay the TA bills amounting to Rs. 66,358/- withheld by them.

(iii) That the respondents be directed to pay the double shift allowance which has been wrongly denied by them.

(iv) That the respondents be directed to add and calculate the Daily Allowance @ Rs. 86/- per day in leave encashment and pay the amount to the applicant.

(v) That the respondents be directed to pay the difference of amount wrongly calculated by them.

(vi) That the respondents be also directed to pay the suitable interest with regard to all retiral and admitted dues since the date of their falling due to the date of payment."

8. By the order, dated 01.09.2004, two applications filed by the petitioner, i.e., O.A. No. 15 of 2000 and O.A. No. 08 of 2002, were disposed of and the matter, relating to the grievances, which the petitioner had raised, was remitted to the Commissioner, Kendriya Vidyalaya Sangathan. The petitioner, however, asserted, in O.A. No. 92 of 2006, that the Commissioner, Kendriya Vidyalaya Sangathan, refused to hear the petitioner and, therefore, he was raising same grievance before the Tribunal. The learned Tribunal, on the basis of pleadings before it, came to a finding that the petitioner could not substantiate his claim that the Commissioner, Kendriya Vidyalaya Sangathan, New Delhi, refused to hear his case, as he did not mention, in his application, as to when and in what manner he had agitated the issue before the Commissioner. The learned Tribunal also refused to accept the petitioner''s plea, through supplementary affidavit filed by him, before the Tribunal, on 23.05.2006, that he had written a letter to the Commissioner, Kendriya Vidyalaya Sangathan, on 18.01.2005, there being no

proof of receipt thereof in the office. Taking into account these facts, the learned Tribunal, by the impugned order, dated 28.09.2010, rejected O.A. No. 92 of 2006 on the ground that the same was hit by res judicata as no fresh cause of action had arisen. The learned Tribunal, however, took a lenient view considering the old age of the petitioner and observed, at Paragraph 18 of the said order, as follows:--

"18. In result the OA is dismissed on the ground of suffering from res-judicata as no fresh cause of a action has arisen. However, considering the fact that the applicant is a senior citizen and taking a lenient view, we give him liberty to again agitate the issue of alleged wrong deductions made before the appropriate authorities in terms of the common order passed in OA No. 15 of 2000 and OA No. 8 of 2002 clearly indicating the deductions being questioned by him and giving reasons thereof within one month from the date of receipt of a certified copy of this order. No order as to costs."

9. The petitioner, thereafter, filed review application, being R.A. No. 8 of 2011, seeking review of the order, dated 28.09.2010, on seventeen (17) grounds, which have been quoted in the order, dated 28.05.2015, passed in said R.A. No. 8 of 2011. From the order of the learned Tribunal, it appears that the Tribunal gave the petitioner a patient hearing and observed, at Paragraph 22, that it (the Tribunal) could not do the job of claim sanctioning authority or pay and accounts office and recorded as follows:--

"22........................The left over claims of the applicant as emerging from the submission made in R.A. and which need clarification/settlement by the respondents appear to be as follows:

(A) Rs. 16,628.00 as TA/DA claim after adjustment of advance of Rs. 28,685.00 against amount of Rs. 45,313.00 passed against claim of Rs. 62,279.00. The applicant has claimed that this balance has not been paid to him and the said amount has also been deducted from his retirement and other claims. Thus he has alleged double deduction. If that is found to be true, the amount of Rs. 33,256.00 shall be payable.

(B) Insurance amount to be paid as per scheme has to be checked. Application has claimed that entire amount paid by LIC is payable but respondents have paid less amount. This has to be settled as per GIS schemes of the Institution.

(C) As per applicant, when all dues were deducted by the Principal at Binnaguri and balance was paid by DD 699723 dated 16.10.2001 of Rs. 52,892/-, deduction of Rs. 11,995/- claimed to be due of Binnaguri Cantt was not permissible. Again deduction of Rs. 3,000/- as dues of Kolkata Region has also been challenged by the applicant. In the reply to show cause notice filed in the CCPA 57 of 2001, respondents have categorically stated that Rs. 4,249/- towards dues of Binnaguri Cantt and Rs. 3,000/- as dues of Kolkata Region were erroneously deducted. Hence, amount of Rs. 7,249/- was paid by DD dated 03.11.2001. Thus Rs. 7,746.00 of deduction on account of Binnaguri Cantt dues remains to be explained. Since subsequently some amount was paid, it appears that the matter of Binnaguri dues must have been rechecked and amount which was found to have been deducted wrongly was refunded. This may be re-verified.

(D) Dues of KV Hubli for Rs. 5,626/- were on account of disciplinary proceeding under Rule 14 of CCS (CCA) Rules in which applicant was perhaps exonerated. This has to be checked and if found correct then this amount has to be refunded.

(E) Rs. 2,000/- with held for unforeseen dues has to be refunded if no further dues were found to be deducted with prescribed time frame.

(F) Amount of Rs. 11,850/-. deducted as TDS. Obviously , the same must have been deposited with the IT authorities. TDS is shown in relevant form [Form 16] issued by the office which is filed by the employee with his IT return. As such the amount should have been claimed by the applicant from the IT Department''s authorities. The applicant himself was Principal and he should have properly checked that TDS is deducted and deposited with the IT department.

(G) The estimated vigilance dues of Rs. 1,906/- are vague and any dues which are subject matter of alleged misconduct can not be recovered without disciplinary proceedings. If no disciplinary proceeding was initiated or punishment awarded by competent authority, then the amount can not be recovered and must be refunded.

(H) Any other dues on account of loss of cash or stores or property can also not be recovered without following procedure in the Rules and if the same has not been done, then that should also be refunded.

(I) The deduction of license fee for the quarter from February 1996 to January 1997 has been challenged on the ground that when quarter became ready at a later date, how the licence fee can be deducted for the period. The fact as to when the quarter became ready need verification in the light of proceedings of the VMC meeting cited by the applicant and accordingly the amount deducted as to be finalized.

(J) Interest on the amounts due if admissible under the rules should also be paid.

23. We have recorded these dues which as per pleadings may fall under the meaning of left over dues for which liberty was given to the applicant to re-agitate the matter before the authorities in the common order passed in O.A. No. 15 of 2000 and O.A. No. 8 of 2002 and reiterated in the order passed in O.A. No. 96 of 2006.

24. In the light of foregoing discussion, we modify the order passed in the O.A. only to the extent that the liberty given to the applicant shall be inter alia for re-consideration of balance dues mentioned in paragraph 22 of this order in the light of observations made herein above and the respondent concerned shall then pass a speaking order within three months giving details and whatever amounts are found to be wrongly deducted or admissible for payment, the same shall be

paid with interest as admissible under rules.

25. The R.A. stands disposed off accordingly. No costs."

10. The petitioner is still not satisfied and has challenged the order of the Tribunal in the present writ application, whereas the learned Tribunal has already given much indulgence to the petitioner, taking his old age into consideration.

11. From the records, it appears that after his superannuation, the petitioner has filed following applications:--

"(i) O.A. No. 15 of 2000,

(ii) C.C.P.A. No. 57 of 2001,

(iii) O.A. No. 08 of 2002,

(iv) O.A. No. 228 of 2005,

(v) C.C.P.A. No. 44 of 2005,

(vi) O.A. No. 92 of 2006 and

(vii) R.A. No. 8 of 2011."

12. From the orders of the learned Tribunal, which are under challenge in the present writ application, the learned Tribunal has been, in our opinion, very considerate in dealing with the petitioner''s case for payment of post retiral dues and other ancillary matters. We do not find any infirmity in the order of the learned Tribunal requiring interference by this Court in a proceeding, under Article 226 of the Constitution of India, exercising power of judicial review. We had, initially, thought of imposing cost on the petitioner, as we found the present writ application to be a frivolous one, but we have decided to refrain ourselves from doing so keeping, again, in our mind, the old age of the petitioner. We do not find any merit in this application.

13. This application is, accordingly, dismissed.

14. There shall be no order as to costs.