

Court No. - 5

Case :- CONTEMPT APPLICATION (CIVIL) No. - 5432 of 2018

Applicant :- Alok Kumar

Opposite Party :- Rakesh Shankar

Counsel for Applicant :- Vijay Gautam, Atipriya Gautam, Azim Ahmad Kazmi, Devesh Mishra, Krishna Ji Shukla

Counsel for Opposite Party :- Praveen Kumar Giri

Hon'ble Saral Srivastava, J.

This Court on 04.03.2022 passed the following order:-

"Heard learned counsel for applicant and Sri Rakesh Mishra, learned Standing Counsel.

The applicant has alleged violation of order of Writ Court dated 21.12.2017 passed in Writ-A No.62057 of 2017, whereby the Writ Court had directed the opposite party to consider the claim of applicant for compassionate appointment in accordance with rules as applicable prior to U.P. Sub Inspector and Inspector (Civil Police) Service Rules, 2015 within a period of two months.

When the order of Writ Court was not complied with, the applicant has preferred the present contempt application in which a compliance affidavit has been filed by Dr. Rakesh Shanker, Deputy Inspector General of Police (Establishment) U.P. Police Headquarter, Prayagraj stating in paragraph 10 of the affidavit that as soon as the succession certificate is submitted by the applicant, he shall be given appointment.

Learned counsel for the applicant has filed counter affidavit to the compliance affidavit annexing therewith a letter dated 27.03.2019 issued by Superintendent of Police, Fatehgarh to Superintendent of Police (Establishment), U.P. Police Headquarter, Prayagraj forwarding a copy of succession certificate.

The applicant alleges that though he is entitled to compassionate appointment which fact has been acknowledged by the opposite party, yet he has not been issued any appointment letter.

In such view of the fact, prima facie a case for contempt is made out.

Accordingly, opposite party is called upon to appear in person on the next date fixed to show cause as to why charge may not be framed against him for not complying with the order of Writ Court.

In case, the order of Writ Court is complied with by the next date fixed, the opposite party may not appear in person and may file an affidavit of compliance through counsel.

List on 04.04.2022."

It is informed by Sri Rakesh Mishra, learned Standing Counsel that the opposite party has retired on 31.03.2021 and no officer has been appointed by State.

The applicant had filed writ petition in the year 2017 and more than five years have passed yet he is not able to take benefit of judgement of this Court.

Now today, it is informed that affidavit could not be filed in compliance of the order of Writ Court as no officer is appointed on the post and earlier incumbent has retired on 31.03.2021. The order of Writ Court has not been complied with in letter and spirit.

The State has not cared to file an affidavit to inform the Court that the opposite party has retired on 31.03.2021.

It is not expected from the applicant to keep eye every moment on the department and as soon as officer is retired or transferred, and new incumbent joins, he rushes to the Court to file impleadment applications.

Once, the notice has been issued, it is obvious that the opposite party who is State has knowledge about the orders of this Court and it is expected from the officers to comply with the orders of this Court in letter and spirit. In such a pitiable condition, it is unfortunate that a poor litigant who is contesting his right

before the Court and after succeeding has failed to get the benefit of judgement due to delaying and unscrupulous tactics adopted by the officers. This results in harassment and waste of valuable time of the litigant in rushing to Court to get the order of the Court executed. The amoral attitude of the authorities in complying with the order of Writ Court also results in wastage of precious time of Court.

In such view of fact, plea of learned Standing Counsel that since the opposite party has retired, therefore, no affidavit has been filed nor the order of the Writ Court could be complied with in letter and spirit, this Court finds unable to condone the conduct of opposite party in not filing compliance affidavit and not complying with the order of Writ Court in letter and spirit, and in such view of fact, this Court is compelled to call upon the Director General of Police, UP, Lucknow in the absence of any officer appointed as D.I.G. Establishment to appear in person before this Court so that he may be apprised of the state of affairs of his department and reckless approach of the officers of the department in not complying with the orders of Writ Court on the next date, **21.04.2022**.

For the reasons recorded in the order and as there is no officer appointed on the post of DIG, Establishment, UP, Prayagraj as informed by learned Standing Counsel since the date of retirement of opposite party on 31.03.2021, this Court finds appropriate to permit the applicant to implead Sri Mukul Goel, Director General of Police, UP, Lucknow as opposite party no.2 in array of party.

List this case on **21.04.2022**.

Order Date :- 4.4.2022

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