

Uc Sharma vs Union Of India And Anr on 11 January, 2019

Author: Vipin Sanghi

Bench: Vipin Sanghi, A. K. Chawla

\$~2

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3327/2018 & C.M. APPL. 1186/2019
UC SHARMA Petitioner
Through: Mr.Amit Singh Chauhan with
Mr. Vaibhav Choudhary, Advs. along with
Petitioner in person.

versus

UNION OF INDIA AND ANR. Respondents
Through: Mr. Dev P.Bhardwaj, CGSC.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA
ORDER

% 11.01.2019 Issue notice. Counsel for the respondents accepts notice. The petitioner has preferred this petition to assail the order dated 15th September, 2017 passed in CP No.52/2017 in OA No.285/2008 and the order passed in the review petition being R.A.No.238/2017 on 15th November, 2017 whereby the review application in respect of the first order was also dismissed. The contempt proceedings had been initiated on the plea that the respondents had not complied with the direction issued by this Court in WP(C) No.8392/2008 on 16.7.2013. By the said direction, this Court had directed the respondents herein to compute the benefits as granted in favour of the petitioner herein, by the Tribunal vide order dated 20th August, 2008 passed in OA No.285/2008, and to deposit the same in the Court of the Additional District Judge, Court No.1, Lucknow within three months. The petitioner claimed that the said amount had not been deposited. During pendency of the contempt proceedings, the amount was deposited. The calculation made by the respondents was disputed by the petitioner. The Tribunal observed that the petitioner had failed to show that the calculation made by the respondents was incorrect, and how much is still due to be deposited. Consequently, the contempt petition was dismissed.

Learned counsel for the petitioner has drawn our attention to the computation made by the respondents which is a part of the forwarding communication dated 25th February, 2014. He points out that the basic pay of the petitioner has been shown as Rs.8/- as in December, 1978, whereas the respondents have themselves stated that his basic pay was Rs.500/-. In this regard, he has drawn the attention of this Court to the stand taken by the respondents in proceedings under the Payment of Wages Act, 1936. In those proceedings, the stand taken by the respondents was as follows:-

"The opposite party raised firstly preliminary objections and stated that M/S Garrison Engineer is neither an industrial establishment nor a factory and therefore it is not covered under Sec 15(2) of payment of wages Act and thus is out of the jurisdiction of the prescribed Authority. They further placed the argument that the applicant is an employee of Military service and his salary is Rs.500/- and therefore the case may not be proceeded under the Act."

Learned counsel for the petitioner submits that the petitioner upon his transfer was adjusted against the Group 'B' post. However, the respondents are considering the petitioner as a Group 'C' employee.

In our view, the aforesaid aspects have to be adequately answered by the respondents. The petitioner is 78 years of age and has been litigating since 1978. It is high time that his grievances were put to rest one way or another.

We, therefore, direct the respondents to file a specific affidavit detailing the justification for computation of the amount as done by them in terms of the order passed by this Court in the aforesaid writ proceedings. The affidavit be filed within four weeks from today.

List on 27.02.2019.

VIPIN SANGHI, J A. K. CHAWLA, J JANUARY 11, 2019 ak