

Dated: 23.04.2019

Present: Sri S.K.Jain, Counsel  
for the petitioner- executioner.  
Sri V.P.Devrani, A.P.O., for Respondents/O.Ps.

The claim petition no. 16/NB/DB/16 was filed by the petitioner-executioner. The same was decided on 03.04.2018. Operative portion of the Judgment reads as under:

“The claim petition is hereby allowed. The impugned order dated 25.04.2015 (Annexure: A1) is hereby set aside. The petitioner would be reinstated within a period of 6 weeks from the date of presentation of this order to respondent No. 3. However, it would be open to the competent authority to proceed afresh against the petitioner in accordance with law. The question regarding payment of salary from the period of termination to the period of reinstatement would be decided by the competent authority at the appropriate time during the inquiry or after the inquiry as per law. Before parting with the matter, it is clarified that no opinion has been expressed on the merits of the case. No order as to costs.”

Compliance report has been filed on behalf of respondents to show that the order sought to be executed has been complied with.

Ld. Counsel for the petitioner admitted that the petitioner has been reinstated. He, however, carves out an exception that there was delay in reinstating the petitioner. He should have been reinstated on or before 17.05.2018, whereas he, in fact, has been reinstated on 13.03.2019.

Ld. A.P.O. replied that, in between, the writ petition filed by the State was pending with the Hon’ble High Court, which has attained finality only on 01.03.2019. He, however, admits that there was no stay granted by the Hon’ble Court in the writ petition.

In the circumstances, this Court is inclined to hold that although this execution application should be disposed of for full satisfaction, but at the same time, a fresh cause of action has arisen to the petitioner, for which, she should be granted liberty to file the fresh claim petition, in accordance with law.

Order accordingly.

The execution application is, accordingly, disposed of, with liberty, as above.

A.S.NAYAL  
MEMBER(A)

JUSTICE U.C.DHYANI  
CHAIRMAN