

Dated: 16.05.2019.

Present: Sri V.P.Sharma Advocate for the petitioner-initiator.
Sri V.P.Devrani, Ld. A.P.O., for Respondents.

Present contempt petition has been moved on behalf of petitioner-initiator for initiating contempt proceedings against opposite parties/ alleged contemnors for willful and deliberate disobedience of judgment and order dated 14.02.2019, passed by this Tribunal. Operative portion of the judgment rendered on 14.02.2019 in claim petition no. 26/SB/2019 reads as below:

“Since petitioner is ready to vacate the Government residential accommodation, occupied by him, by 28.02.2019, therefore, claim petition is disposed of, with the consent of Ld. Counsel for the parties, that, on petitioner’s vacating Govt. accommodation by 28.02.2019, Respondent No.3 shall release a sum of Rs.343184-00/- [90% of GPF], along with admissible interest, after deducting the arrears of rent, which shall be calculated as per Fundamental Rule 45-K-4(Kh) of Financial Hand Book Vol. II to IV, within one week from the date of vacating the Govt. accommodation. Simultaneously, Respondent No. 3 shall initiate the process of releasing balance 10% of GPF, by Respondent No.4, which means that Respondent No.3 shall send a letter to Respondent No.4 for release of balance 10% of GPF within a week of petitioner’s vacating the Government accommodation. Respondent No.4, shall release the same, at an earliest possible, and without inordinate delay, as per Rules.”

It is the submission of Ld. Counsel for the petitioner-initiator that the petitioner has vacated the Government accommodation on 28.02.2019, but despite that the order sought to be executed has not been complied with.

The question, which arises for consideration is—whether the matter should be taken for the motion or not?

It is revealed, from the perusal of the record, as agreed to by Sri V.P.Sharma, Learned Counsel for the petitioner., that petitioner has not filed any execution application before filing the contempt petition.

Section 5(7) of the U.P. Public Services (Tribunal) Act, 1976, provides for execution of the judgment, passed by the Tribunal. It reads as below:-

“5(7). The order of the Tribunal finally disposing of a reference shall be executed in the same manner in which any final order of the State Government or other authority or officer or other person competent to pass such order under the relevant service rules as to redressal of grievances in any appeal preferred or representation made by the claimant in connection with any matter relating to his employment to which the reference relates would have been executed.”

[Emphasis supplied]

Further, Chapter XVII of the Uttar Pradesh State Public Services Tribunal Rules of Practice, 1997, provides for the execution proceedings. On receipt of application for execution of the decision/order or direction made by the Tribunal, notice of the execution application shall be served on the person, against whom it is prayed for. The Registrar shall present the record before the Bench, to which, such work is assigned by the Chairman. Thereupon, necessary direction/orders for execution of the decision shall be made by the Member, having regard to the provisions of Order XXI of the Code of Civil Procedure.

Rule 5 of the U.P. Public Services Tribunal (Procedure) Rules, 1992 provides for presentation of scrutiny of petitions.

Rule 50 of such Rules, reads as under:

50. Initiation of proceedings—(1) Any petition, information or motion for action being taken under the Contempt shall, in the first instance, be placed before the Chairman.

(2) The Chairman or the Vice-Chairman or such other Members as may be designated by him of this purpose, shall determine the expediency or propriety of taking action under the Contempt Act.”

Considering the facts of the case, it will not be expedient and propriety does not demand that any action under the Contempt of Courts Act, 1971 should be taken against the alleged contemnors, at this stage.

Ld. Counsel for the petitioner seeks and is permitted to withdraw present contempt petition, with liberty to file the execution application, in accordance with law, before taking recourse to the contempt jurisdiction.

Order accordingly.

The contempt petition is thus closed under Rule 50 of the Uttar Pradesh Public Services Tribunal (Procedure) Rules, 1992, with liberty, as above.

One of the objects of contempt jurisdiction is enforcement and compliance of the orders of the Court. Execution application is also moved by the person, only to execute the order passed in his favour.

Considering aforesaid objects of execution application/ contempt jurisdiction, a request is made to Opposite Party No. 2 and Senior Accounts Officer, A.G. Office, Dehradun, to comply with the order dated 14.02.2019 passed by this Tribunal in claim petition No. 26/SB/2019. Why any occasion to file contempt petition/ execution application should be given to the petitioner?

Registry is directed to send a copy of this order to Respondent No.2 and Senior Accounts Officer, Office of the Accountant General (Accounts & Entitlement), Kaulagarh, Dhehradun, within a week, for compliance.

MEMBER(A)

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JUSTICE U.C.DHYANI
CHAIRMAN