

**Court No. - 5**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 322 of 2022

**Applicant :-** Braj Mohan Sharma And 3 Others

**Opposite Party :-** Mr. Navneet Chahal D.M. Mathura

**Counsel for Applicant :-** Rohit Kumar Singh

**Hon'ble Saral Srivastava,J.**

Heard learned counsel for the applicants and Sri Mata Prasad, learned Standing Counsel for opposite party.

This Court vide order dated 06.09.2021 has quashed the order dated 22.07.2016, whereby the respondents had denied the payment of pension to applicants on the ground that services rendered by them prior to the date of regularization shall not be counted as qualifying service so as to entitle them the benefit of old pension scheme. This Court has allowed the writ petition. Relevant part of order of this Court dated 06.09.2021 is extracted herein below:-

*"The judgements, as recorded above, have categorically held that the services rendered for a very long period cannot be ignored while computing qualifying service. In view of the catena of judgements, as recorded above, the impugned order dated 22.7.2016 passed by the Commissioner & Secretary, Board of Revenue, U.P. Lucknow (respondent no. 2) is hereby set aside and directions are issued for computing and payment of pension calculating the services rendered by the petitioners with effect from 1996 as qualifying service. The exercise of computation and payment shall be concluded with all expedition preferably within a period of four months from the date of production of a copy of this order.*

*The petition is disposed off in terms of the said direction.*

*Copy of the order downloaded from the website of Allahabad High Court shall be accepted/treated as certified copy of the order."*

Relevant extract of the order of this Court shows that this Court has quashed the order dated 22.07.2016 by issuing a direction to the Commissioner & Secretary, Board of Revenue, U.P., Lucknow for computing and payment of pension taking into account services rendered by them with effect from 1996 for the

purposes of qualifying service.

When the order of this Court was not complied with, the applicants have preferred the present contempt application.

On 11.02.2022, this Court issued notices to the opposite party to comply with order of Writ Court and in case of non-compliance of order of Writ Court, the opposite party shall remain present before this Court.

A compliance affidavit has been filed enclosing therewith an order dated 18.04.2022 passed by opposite party, District Magistrate, Mathura in a very causal manner refusing to grant the benefit of service rendered by the applicants prior to their regularization. The refusal of claim of applicants on the pretext that the review application has been filed by the State Government for reviewing of judgement dated 06.09.2021 and till the disposal of review application, no benefit as directed by this Court can be extended to the applicants is in the teeth of direction by this Court.

The affidavit of compliance is silent as to the date on which the review application has been preferred and the ground on which it has been preferred.

It is pertinent to note that it is settled in law that if the order of this Court is not stayed or set aside, the order shall remain in force in letter and spirit and nobody can be allowed to violate the order or act in the teeth of order of this Court.

The order dated 18.04.2022 passed by opposite party-District Magistrate, Mathura is nothing but gross contemptuous act by the District Magistrate inasmuch as it cannot be believed that such an officer could not understand the intent and simple language in which the order of this Court has been passed. It is

very surprising that despite a clear mandate issued by this Court, the District Magistrate, Mathura sat over in appeal of the order passed by this Court.

It is expected that the District Magistrate should know the basic principle of law that till the order is stayed, the order shall remain in force and the authority is bound to comply with the order.

Despite the aforesaid fact, the District Magistrate, Mathura knowingly and deliberately passed the order dated 18.04.2022 which is nothing but abuse of power on the part of District Magistrate and amounts to gross disrespect to the order of this Court. Though, normally this Court would have issued non-bailable warrant, but in such glaring facts where the order of this Court has been violated with impunity, this Court cannot shut its eyes, and to uphold the majesty and dignity of the Court so that confidence of public may not erode in judicial system, this Court finds it to be a fit and appropriate case in which non-bailable warrant is issued against the District Magistrate, Mathura who shall be produced in police custody on the next date fixed.

In such view of the fact, this Court issues non-bailable warrant against opposite party through the C.J.M. concerned.

Let a copy of this order be sent to the C.J.M. concerned for compliance.

Let a copy of this order be communicated to C.J.M. concerned by Registrar (Compliance) within 48 hours.

List this case on **12.05.2022**.

**Order Date :- 26.4.2022**

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