

Court No. - 21

Case :- WRIT - C No. - 4696 of 2015

Petitioner :- Smt. Laxmi Devi

Respondent :- State Of U.P. & 4 Others

Counsel for Petitioner :- Anurag Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Vikram Nath,J.

Hon'ble Shashi Kant,J.

On 30.01.2015, following order was passed :

"Heard learned counsel for the parties.

The application made by the petitioner for the grant of claim of insurance under policy no.082400/00/08/03/00000015, in respect of the death of the proprietor of the firm Hukum Singh & Company, Mandi Sthal, Bebar, namely Hukum Singh was allegedly rejected by the United India Insurance Company Ltd. under an order dated 24.1.2011 on two grounds; (a) That on the relevant date the firm was not duly registered in accordance with the statutory provisions and (b) the claim has been presented after expiry of the prescribed period of limitation.

Learned counsel for the petitioner has submitted that subsequent to the issuance of the said order, the petitioner had submitted an application before the Joint Commissioner, Trade Tax Department, Lucknow and he could neither inform the Court as to on which date such application was made before the Joint Commissioner nor there is any recital pertaining to the date of making of the application. However, on record there is a letter of Joint Commissioner, (Executive), Mainpuri Head Office, Firozabad informing the petitioner that she may appear before him on 4.9.2013.

According to the petitioner what has happened thereafter is not known. The petitioner had approached this Court earlier by means of Writ Petition (Tax) No.642 of 2014 which writ petition was got dismissed with a liberty to file afresh for challenging the order dated 24.1.2011. Hence this writ petition has been filed.

We may record that in the prayer clause the date of impugned order has been overwritten as 24.1.2014. Similarly, in the order impugned also enclosed as Annexure-9 to the writ petition the date has been overwritten as 24.1.2014 in place of 24.1.2011 and on that basis the Stamp Reporter has reported the petition to be beyond time of 303 days only. However, on being asked, learned counsel for the petitioner stated that the date of impugned order was 24.1.2011 and not 24.1.2014 and that he is not aware as to who has made corrections in the prayer clause and in the document enclosed as annexure-9 to the present writ petition. It is his case that such corrections could have been made by the Stamp Reporting Section of the High Court.

If any interpolation has been made by the Stamp Reporter of the Section of the High Court, this is a serious matter inasmuch the Stamp Reporters themselves require to report the writ petition with reference to the dates mentioned therein specifically those in the prayer clause read with the date mentioned in the impugned order, annexure-9.

The Stamp Reporter or for that purpose any person working therein has no authority to make any correction.

We may, therefore, direct the Registrar General of this Court to hold an inquiry as to who has made the corrections in the prayer clause and in the impugned order with regard to the date and to submit his report after such inquiry before this Court on 19.2.2015.

The petitioner, his counsel may also be afforded opportunity in the matter of inquiry by the Registrar General.

List on 19.2.2015."

Pursuant to the same, an inquiry was got conducted by the In-charge Registrar General. Sri Irfan Qamar was the Inquiry Officer who submitted a report that the interpolation in the dates was made prior to presenting the petition before the Stamp Reporting Section. He has further recorded a finding that in Para-16 of the petition and in the grounds IX of the petition, the actual date of impugned order i.e. 24.01.2011 was mentioned. As such, the Reporting Officer ought to have noticed the discrepancy and it should have been brought immediately into the knowledge of Superior Authority. Based on the said report I/c Registrar General has directed for initiating Departmental Inquiry against two officials of the Stamp Reporting Section. In-charge Registrar General has submitted a Preliminary Inquiry Report for perusal and for appropriate directions of the Court.

Having perused the report, we are of the view that once the finding in the report is that in the prayer clause and in the typed copy of the impugned order interpolation had been made prior to the submission of the writ petition before the Stamp Reporting Section and also from the perusal of the photocopy of the impugned order in which the date is clearly mentioned as 24.01.2014, it would be unfair to hold two officials responsible for any dereliction in discharging their duties. They are expected to check the prayer clause and impugned order and on that basis submit the report regarding the petition being in time or not. They are not excepted in normal course to read the entire petition

The Stamp Reporting Section cannot be expected to read the entire petition as also the grounds and find discrepancy in the pleadings the attachments. This exercise would be too onerous and almost impracticable to accept. It would be impossible to submit reports by the Officers of the Stamp Reporting Section.

We accordingly reject the report in so far as appropriate action and Department Inquiry against Sri Praveen Kumar Srivastava, Emp. No. 6018, R.O. and Sri Sunil Kumar, Emp. No. 3219, S.O. are concerned. There is no necessity to conduct Departmental Inquiry against them. The proceedings for Departmental Inquiry are accordingly dropped.

We however direct learned counsel for the petitioner to file appropriate affidavit explaining the interpolation in the prayer clause as also typed copy of the impugned order within a period of one month. List in August, 2015.

Order Date :- 27.5.2015

Monika