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|   *05* *21/02/2018* | *Mrs. Sunita Agarwal,* *Learned Advocate.* ***For the Applicants :*** *Mr. Goutam Pathak Banerjee,* *Mr. Manujendra Narayan Roy,* *Learned Advocate.* ***For the State Respondents :***  *The instant contempt petition has been filed praying for implementation of the order dated 16.05.2017 passed in OA 405 of 2017, wherein the following order was passed* *“Now based on the submission of Shrimati Agarwal, Learned Counsel for the Applicant we direct that the said portion of the Order passed on 16.05.2017 be modified to the extent the Respondent No.2 .i.e. the Principal Secretary, Department of Water Resource Investigation Development and the Respondent No.5 i.e. the Additional Chief Secretary, Labour Department, Government of West Bengal will consider the release of Leave Encashment in favour of the Applicants as admissible under the Rules keeping in view the Order dated 16.08.2012 passed by this Tribunal”.*  *The respondents have filed today one compliance report wherein they have enclosed one speaking and reasoned order dated 15.12.2017 passed by the Principal Secretary to the Government of West Bengal, Labour Department (Annexure R4 ). Though there was a direction upon the Principal Secretary, Department of Water Resources Investigation Development and the Additional Principal Secretary, Labour Department but the compliance report has been filed by Principal Secretary, Labour Department. During the course of hearing the Counsel for the respondents / contemnor has drawn our attention to the para 5 of Memorandum dated 27.05.2009 (annexure R1) and has submitted that they have granted leave encashment on the basis of their last basic pay drawn by them.*  *However, the Counsel for the applicant has submitted that respondents have not fully complied with the order dated 16.05.2017, they have only paid them leave encashment for 300 days on the basis of last pay drawn not on the revised pay scale.*  *In reply to that the Counsel for the respondents has drawn our attention the para 5 of the Memorandum dated 27.05.2009 and has submitted that the authority has not sanctioned the leave encashment on the revised pay scale on the basis of this Memorandum since it is binding upon them and as a part of the ROPA Rules 2009.*  *As per the Counsel for the applicant this memorandum is against the spirit of the rule.*  *Even then Counsel for the respondents has submitted that if she has any dispute with this regard it may be a fresh cause of action but cannot be treated as non compliance of the order.*  *Heard the parties and perused the record.*  *In our view since as per the respondents this Memorandum is binding upon them and being a departmental authority they have to treat it as a part of the rule. We are of the opinion that substantial compliance has been made. Therefore, we drop the contempt petition. Notices are discharged. However, if the applicants are still aggrieved they will be at liberty to approach the appropriate forum.*  *Plain copy.*  ***Dr. A. K. CHANDA URMITA DATTA (SEN)*** ***MEMBER(A) MEMBER(J)****Rajat* |   |