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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 494/2009

BIKRAM BHATTACHARJEE

..... Petitioner

Through: Mr. P.K. Maitra & Mr. S.C. Sharma, Advocates.

versus

K.K.GUPTA & ORS.

..... Respondents

Through: Mr. Sandeep Sethi, Sr. Advocate with Mr. Rajeev Nayan, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

09.11.2009

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The respondents as directed are stated to be present in person. The costs imposed on the last date has been paid before the court today.

This contempt petition has been filed with respect to the order dated 30th April, 2009 in W.P.(C) No.7173/2001. The said writ petition was preferred by M/s Singer India Ltd. with respect to the order dated 25th May, 2001 of the Labour Court. By the said order the reference made to the Labour Court was disposed of with the finding that the petitioner workman herein was illegally terminated on 14th September, 1993 and the management ie. M/s Singer India Ltd. was directed to reinstate the petitioner workman with full back wages and continuity of service with all consequential relief. Vide order dated 28th November, 2001 in the writ petition, the operation of the award was stayed subject to the management depositing 50% of the back wages in this court and which were so deposited. On 30th April, 2009, the counsel for the petitioner informed the court that he had instructions to withdraw the writ petition for the reason that the management had agreed to implement the complete award. Accordingly, it was held that nothing survives in the petition, 50% of the back wages lying deposited

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physical file have been compared and
the digital data is as per the physical
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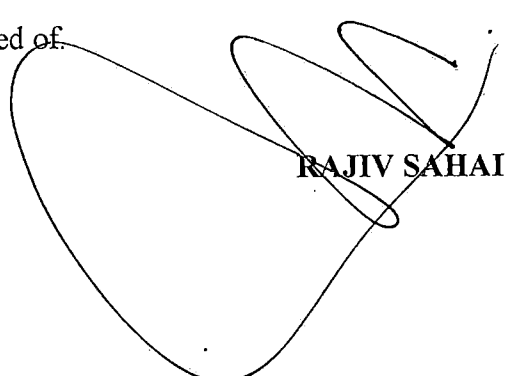
in the court were ordered to be released in favour of the petitioner workman along with interest, if any, accrued thereon and it was further directed that the management shall pay the remaining amount of back wages with interest at 9% from the date of the award till final payment within one month of the said order.

The grievance of the petitioner is that the consequential relief as allowed by the Labour Court has not been granted to him. He contends that one Mr. Jai Kumar Seth was as on the date of his alleged termination, and which has been set aside, junior to him and less qualified and the petitioner workman has not been granted all the consequential relief as have been enjoyed by the said Mr. Jai Kumar Seth since 14th September, 2003 contempt case has been filed against official of Singer India Ltd.

The senior counsel for the respondents has drawn attention to the order wherein the direction is with respect to the remaining 50% of the back wages only and not with respect to anything else. In fact Singer India Ltd. could have simply withdrawn the petition and there was really no necessity for making a statement before the court that the award was agreed to be implemented in entirety. This court in the exercise of contempt jurisdiction is concerned with only whether there is any willful violation of a direction or an order of this court. The direction or order is only for payment of the remaining 50% of the back wages which have been paid in terms of the order. There was no direction or order of this court with respect to consequential relief. In fact the 50% of the back wages subject to deposit of which the operation of the order was stayed on enquiry are also informed to have been deposited on the basis of the wages of the petitioner only and not as influenced by the wages/emoluments of aforesaid Mr. Jai Kumar Seth. The counsel for the petitioner on enquiry confirms that the petitioner had not raised any grievance of the management having not complied with the direction of deposit of 50% of the back wages. The counsel for the petitioner draws attention to an application stated to have been filed in May, 2005. The same is however not found to be containing any grievance of non-compliance of the order dated 28th

November, 2001. The counsel for the petitioner has relied upon *D.K. Yadav Vs. J.M.A. Industries Ltd.* (1993) II LLJ 696 SC, *All Bengal Excise Licensees Association Vs. Raghavendra Singh* AIR 2007 SC 1386 & *J.K. Synthetics Ltd. Vs. K.P. Agrawal* (2007) 2 SCC 433. However, they are not found relevant in view of the above. Moreover, if the petitioner is entitled to any further consequential relief, his remedy is under Section 33 C of the Industrial Disputes Act. Though Section 33 C provides that an application thereunder is to be made within one year from the date on which the money became due to the workman from the employer, but since the operation of the award had been stayed by this court and which stay has been vacated on 30th April, 2009 only, the petitioner would be entitled to invoke the said provision. The adjudication as to entitlement if any of petitioner to any other consequential relief cannot be done in these proceedings. No case of contempt is made out. The notice of contempt earlier issued is discharged.

The petition is disposed of.



RAJIV SAHAI ENDLAW, J

NOVEMBER 09, 2009
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