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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: January 11, 2010
Date of Order: February 22, 2010

+ Cont Cas(C) 1729/2006

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22.02.2010

R.C. Aggarwal

...Petitioner

Through: Mr. A.P. Singh, Advocate

Versus

Sanat Kaul & Ors.

...Respondents

Through: Mr. Vikas Singh, Sr. Adv with Mr. Nikhil Nayyar, Advocates

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By way of this contempt petition filed in December 2006, under Section 12 of the Contempt of Courts Act, 1971, the petitioner alleged non-compliance of an order passed by this Court on 14th March, 2006 in LAP 266 of 2006.

2. The issue in the LPA was whether the petitioner's lien continued with his parent department on the post of Financial Controller and Secretary for a period of five years from the date he was released. This Court set aside the order of respondent dated 3rd January 2003 terminating the lien of the petitioner and observed that the petitioner shall have lien for a period of five years from 7th September 2000. This Court also directed that since the petitioner was not being allowed to join his parent department on the ground of termination of his lien, he be allowed to join the post of Financial Controller and Secretary in DTDC immediately and in case the post was not vacant, he shall be given equivalent post with all benefits.

3. An SLP was preferred against this order whereby leave was granted by the Supreme Court, however, no stay was granted. The petitioner filed the present contempt petition on the ground that order has not been complied with and the respondent officials should be punished for contempt.

4. On an application made by the respondents, the Supreme Court vide its order dated 2nd

March, 2007 observed that the contempt proceedings shall remain stayed. The SLP was ultimately dismissed by the Supreme Court. As the operation of the order passed by this Court had not been stayed, vide order dated 26th May, 2006, the respondent issued order allowing the petitioner to join duties with effect from 14th March, 2006. It was also ordered that he will be entitled to draw his pay and allowances from that date. The arrears were paid to the petitioner. He was assigned duties of overseeing of functioning of enforcement, domestic transport including Delhi Haat and Garden of Senses. He was to report directly to CMD.

5. This contempt petition should have come to an end after the petitioner was assigned duties and the order was complied with. However, the present contempt petition continued on petitioner's insistence that his pay was wrongly fixed by a subsequent order of respondent and also on the ground that there were some subsequent developments.

6. I consider that the scope and ambit of order passed by this Court in LPA was limited and this Court had only observed that lien of the petitioner had not come to an end and he had a right to rejoin the parent department. This Court had not to devolve upon any other issue. Since the petitioner was assigned duties and was allowed to join duties from 14th March, 2006 as a consequence to the order passed by this Court, I consider that the present contempt petition is not maintainable as there was no deliberate and willful effort on the part of respondents to defy the order of this Court. After the order was passed by this Court, the respondent exercised its right of preferring an SLP and since no stay was granted, the respondents immediately thereafter complied with the order. The other issues which have been agitated by the petitioner are not germane to the present contempt proceedings. I find no reason to continue with the present contempt petition. The same is hereby dismissed. However, the petitioner is at liberty to assail any other order by independent proceedings before the Court of competent jurisdiction. No orders as to costs.

February 22, 2010
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SHIV NARAYAN DHINGRA J.