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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 567/2014**

PARKASH SINGH & ORS

..... Petitioners

Through: Mr. R.M. Sinha with Mr. Chandan
Kumar, Advs.

versus

C.VISWANATH

..... Respondent

Through: Mr. Om Prakash, Adv.

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Date of Decision: 09th November, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present contempt petition has been filed with the following prayers:-

a) Summon and hold the respondent/contemnor guilty of committing the wilful and deliberate disobedience of the order and judgment dated 23.08.2013 of this Hon'ble High Court pronounced in WP(C) No. 3256/2010 titled as FCI Handling Workers' Union v/s Union of India & Ors; and

b) Direct the respondent/contemnor to purge the contempt by making promotions to the petitioners in accordance with the depot-wise seniority as per the rectified list of Sarders and Mondals (Annexure-P/2) issued pursuant to the Circular No. 07/2006 dated 23/24.02.2006 as upheld by this Hon'ble

High Court in the above stated order and judgment dated 23.08.2013; or

c) Punish the respondent/contemnor for the contempt of this Hon'ble High Court in accordance with law; and/or

d) Pass such other and/or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

(emphasis supplied)

2. A coordinate Bench of this Court vide judgment and order dated 23rd August, 2013 upheld the settlement dated 07th November, 2007 and the circulars 7/2006 and 11/2007 dated 23rd February, 2006 and 20th November, 2007 respectively.

3. Learned counsel for the petitioners contends that as the petitioners have not been promoted in accordance with the circulars 7/2006 and 11/2007 - the legality and validity of which had been upheld by this Court - the respondent is liable to be punished for contempt under the Contempt of Courts Act, 1971 (for short 'Act, 1971').

4. In support of his contention, he relies upon a judgment of the Supreme Court in ***Delhi Development Authority vs. Skipper Construction Co. (P) Ltd. and Another, (1996) 4 SCC 622*** and Division Bench judgment of the Calcutta High Court in ***Sri Subrata Kundu & Ors. vs. Sri Kshiti Goswami & Ors., AIR 2010 Calcutta 44*** to submit that the civil contempt proceeding is basically directed towards enforcement of an order and not for punishing the contemnors. He further submits that imposition of punishment for contempt would not denude the Court of its power to issue directions to remedy the wrong done by the contemnor.

5. On the other hand, learned counsel for respondent No. 1 contends that the circulars in question stand implemented. In support of his contention, he relies upon the order dated 07th October, 2013 issued by the respondent.

6. Civil contempt as defined under Section 2(b) of the Act, 1971 means wilful disobedience of any judgement, decree, direction, order, writ or other process of a Court or wilful breach of an undertaking given to a Court. The alleged disobedience of a circular does not and cannot amount to contempt. Consequently, it is not open to the petitioners to file a contempt petition in the present facts and circumstances of the case.

7. In fact, the coordinate Bench of this Court while disposing of Writ Petition Nos. 3256/2010, 4891/2008 and 865/2010 had only upheld the legality and validity of the settlement agreement and the aforesaid circulars. How the said circulars are to be interpreted and to be implemented was not dealt with in the said judgment.

8. Since, no contempt is made out, this Court is of the view that the judgments relied upon by learned counsel for the petitioners are inapplicable to the facts of the present case.

9. Accordingly, the present contempt petition is dismissed.

10. However, if the petitioners are aggrieved by their non-promotion, they are at liberty to file appropriate proceedings in accordance with law. It is clarified that this Court has not expressed any opinion on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

NOVEMBER 09, 2016
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