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

+ **CONT.CAS(C) 1040/2016**

% ***Judgment dated 14th September, 2016***

SANJIV CHATURVEDI

..... Petitioner

Through : Mr.Pramod Kumar Sharma, Adv.

versus

DR M C MISRA

..... Respondent

Through : Mr.R.K. Gupta and Mr.M.K. Singh,
Advs.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

CM APPL. 33436/2016

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

CONT.CAS(C) 1040/2016

3. Present contempt petition has been filed by the petitioner under Section 12 and 2(b) of the Contempt of Courts Act, 1971, alleging wilful disobedience of the undertaking given to Court on 17.3.2016 in W.P.(C)1888/2016 and also alleging wilful disobedience of the directions contained in the order dated 12.5.2016 passed by a Division Bench of this Court in Cont.Cas(C) 564/2016.
4. Learned counsel for the petitioner submits that the petitioner had filed OA No.2175/2015 before the Central Administrative Tribunal (hereinafter referred to as '*the Tribunal*') wherein on 3.2.2016 the

Tribunal had made certain observations/adverse comments against the petitioner. Counsel further submits that aggrieved by the order dated 3.2.2016 passed by the Tribunal, the petitioner filed W.P.(C) 1888/2016, wherein notice was issued on 17.3.2016. Counsel further submits that on the same date, counsel for the respondent, on instructions, had made a statement that the respondents would not take any action on the basis of the averments/observations made in the impugned judgment. Order dated 17.3.2016 reads as under:

“+ W.P.(C) 1888/2016

SANJIV CHATURVEDI

..... Petitioner

Through Mr. Colin Gonsalves, Sr. Advocate with Ms. Vinika Kiho, Advocate along with petitioner in person.

versus

UOI AND ORS.

..... Respondents

Through Mr. S.S. Rai, Advocate for Mr. Vikas Mahajan, CGSC for UOI. Mr. Raj Kumar Gupta, Advocate for AIIMS.

*CORAM: HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI*

ORDER

% 17.03.2016

Caveat No. 205/2016

As the counsel for the respondent No. 3 has entered appearance, the caveat stands discharged.

CM No. 8078/2016

Exemption application is allowed, subject to all just exceptions.

W.P.(C) No. 1888/2016 & CM No. 8077/2016

Issue notice returnable on 12th May, 2016.

Mr. Raj Kumar Gupta, Advocate accepts notice on behalf of the respondent No. 3. Mr. S.S. Rai, Advocate, who appears for Mr. Vikas Mahajan, Central Government Standing Counsel, accepts notice on behalf of the respondent Nos. 1 and 2.

We believe and perceive that counter affidavit is required to be filed on behalf of the respondent No. 3. Counter affidavit will be filed within four weeks. Rejoinder affidavit, if any, within three weeks thereafter.

Mr. Raj Kumar Gupta, Advocate, on instructions, states that till the next date of hearing, they will not be taking any action on the basis of averments/observations made in the impugned judgment. The statement is taken on record.”

5. Learned counsel for the petitioner further submits that the petitioner was forced to file Cont.Cas(C) 564/2016, as the respondent in its reply to the another OA bearing No. 1887/2015 filed by the petitioner, had relied upon the observations made by the Tribunal on 3.2.2016 in OA No.2175/2015. Counsel contends that the High Court, vide its order dated 12.5.2016, was forced to observe in Cont.Cas(C) 564/2016 that the Tribunal would decide the matter unaffected by the observations made by the Tribunal in the order dated 3.2.2016 in OA No.2175/2015. The order dated 12.5.2016 reads as under:

“O R D E R
% 12.05.2016

CM No.18124/2016

Allowed, subject to all just exceptions.

The application stands disposed off

Cont. Cas. No.564/2016

We have heard the learned Senior Advocate for the petitioner and the learned counsel for the respondents. We would like to dispose of the present contempt petition by directing that the proceedings pending before the Tribunal will be disposed of, without being influenced by any findings or observations made in the impugned order dated 3rd February, 2016 in OA No.2175/2015. This would mean that the respondents would be entitled to rely upon the factual assertions and equally open to the petitioner to contest the same on merit or other grounds. The findings recorded in the impugned order dated 3rd February, 2015 are the subject-matter of challenge before the High Court in WP(C) No.1888/2016 and the said findings have not attained finality. We have recorded the statement of the learned counsel for the respondents to the effect that they will not take action on the basis of the averments/observations in the impugned order dated 3rd February, 2016 passed in OA No.2175/2015.

With the aforesaid observations, the present contempt petition is disposed of.

A copy of this order be given dasti under the signature of the Court Master.”

6. Learned counsel for the petitioner further submits that thereafter the petitioner made a representation to the respondent seeking extension of his period of deputation. Counsel contends that the complaint of the petitioner is that the respondent, while relying on the observations made by the Tribunal in OA No.2175/2015, has rejected the representation of the petitioner. Counsel also contends that in view of the statement made by the counsel for the respondents in W.P.(C) 1888/2016, the observations made by the Tribunal in OA No.2175/2015 could not have been relied upon by the respondents in rejecting the representation.

7. Per contra, Mr.Gupta, learned counsel for the respondent, submits that the petitioner has incorrectly read the order dated 17.3.2016 passed in W.P.(C)1888/2016, as the statement so made was only that they would not take any action against the petitioner on the basis of averments/observations made in the impugned judgment. Counsel further submits that in order to effectively deal with the representation of the petitioner, the observations made by the Tribunal were relied upon and in case the observations of the Tribunal were not relied upon, the petitioner would have complained that his representation has been rejected without a reasoned order.
8. Heard counsel for the parties. Having regard to the submissions made and on reading of the order dated 17.3.2016 containing the statement of the counsel for the respondent, we find that the petitioner has not been able to make out a case of wilful disobedience of the order dated 17.3.2016.
9. At this stage, counsel for the petitioner submits he would move an application seeking stay of the impugned order passed by the Tribunal in the aforestated writ petition, which is listed on 26.10.2011.
10. Accordingly, no grounds are made out to initiate contempt proceedings against the respondent. Contempt petition stands dismissed.

G.S.SISTANI, J

I.S. MEHTA, J

SEPTEMBER 14, 2016 msr