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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 1345/2016

NARINDER SINGH AND ANR

..... Petitioners

Through: Mr. Tanmaya Mehta, Advocate with
Ms. Swati Gupta and Ms. Mudita Sharda,
Advocates.

versus

SURENDER KUMAR AND ANR

..... Respondents

Through: Mr. Arun Bhardwaj, Advocate for
University of Delhi.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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19.12.2016

CM Appl. 46769/2016 (exemption) in Cont.Cas(C) 1345/2016

Allowed, subject to just exceptions.

Cont.Cas(C) 1345/2016

Present contempt petition has been filed alleging wilful disobedience of the judgment and order dated 28th August, 2015 passed in W.P.(C) No.5096/2012 and W.P.(C) 5099/2012 whereby the Court held that petitioners are entitled to the benefit of second ACP from the dates due in accordance with the instructions issued by DoPT and if benefits under MACP needs to be granted to the petitioners, the same shall be effected within three months.

Learned counsel for petitioner states that second ACP upgradation should have been granted in Pay Band-3 and not in Pay Band-2. He further states that though the petitioners No.2 and 3 were entitled to second upgradation under the ACP Scheme w.e.f. 01st January, 1998, yet the same was granted only on 09th

August, 1999. Consequently, according to him, appropriate MACP was also not granted.

However, this Court is of the opinion that the disputes sought to be agitated by the petitioners cannot be decided in contempt proceedings. It is settled law that contempt proceedings are in the nature of quasi criminal proceedings and unless the disobedience is wilful, the respondent cannot be held guilty of contempt. Moreover, the Supreme Court in *Sahdeo alias Sahdeo Singh vs. State of Uttar Pradesh & Ors., (2010) 3 SCC 705* after referring to the Constitution Bench judgment in *State of Bihar vs. Sonabati Kumar, AIR 1961 SC 221* has held that the provisions of Contempt of Courts Act, 1971 deal with the wilful defiance of the order passed by the court and order of punishment be not passed if the court is satisfied that the party was, in fact, under a misapprehension as to the scope of the order or there was an unintentional wrong for the reason that the order was ambiguous and reasonably capable of more than one interpretation or the party never intended to disobey the order but conducted himself in accordance with the interpretation of the order. In the opinion of this Court, the aforesaid ratio clearly applies to the facts of the present case.

Accordingly, present contempt petition is disposed of with liberty to the petitioner to file appropriate legal proceedings in accordance with law.

Order dasti.

MANMOHAN, J

DECEMBER 19, 2016

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