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

+ **CONT.CAS(C) 122/2017**

DR S K SHAKYA ..... Petitioner  
Through Mr. Ankur Chibber, Advocate

versus

RAJIV MEHRISHI & ORS ..... Respondents  
Through Ms. Santosh Kohli, Advocate

**CORAM:**

**HON'BLE MS. JUSTICE INDIRA BANERJEE**

**HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA**

**ORDER**

% **15.02.2017**

This application for contempt is for violation of an order dated 12.1.2017 passed by us in the WP(C) No. 11651/2016 filed by the petitioner.

In the writ petition, it was contended that the petitioner had been placed under suspension and his suspension was from time to time extended, the last extension being till 17.9.2016. After 17.9.2016 the order of suspension has not been extended. The petitioner has, however, neither been paid his salary nor any

subsistence allowance. The writ petition is still pending and has been listed for hearing on 17.3.2017.

We passed an interim order directing the respondents to release the entire outstanding subsistence allowance payable till then, within two weeks from the date of the said order. The subsistence allowance was not released within the time stipulated in our order and accordingly this application for contempt was filed.

After the application for contempt was filed, the respondents released subsistence allowance to the petitioner. Mr. Chibber submits that the subsistence allowance was paid yesterday.

There is substance in Mr. Chibber's argument that the petitioner is entitled to his full salary for the period after 17.9.2016, since the order of suspension was not extended. However, since by way of an interim order, we had directed that the outstanding subsistence allowance payable till the date of the order, be released, it cannot be said that the respondents have contravened any order of this Court by paying only subsistence allowance for the period upto January, 2017. It is expected that the balance amount, that is salary, less the subsistence allowance paid to the petitioner for the period after 19.9.2016 will also be released to the petitioner in due course.

Learned Counsel representing the respondents submits, that the matter of revocation of suspension is pending before the Ministry of Home Affairs. However, there is apparently no extension and there cannot in our prima facie view be extension with retrospective effect.

However, in civil contempt proceedings the Court is only to examine if the respondents have violated any order of Court wilfully and deliberately. The Court cannot adjudicate the legality and/or correctness of any action of the respondents. In contempt proceedings, the Court cannot also change or modify the order, violation thereof is alleged. The legality of the action of the respondents in releasing subsistence allowance and not full salary for the period after 17.9.2017, will have to be adjudicated in the pending writ petition.

Since our interim order has been complied with, we do not wish to proceed with the contempt. The contempt proceedings are dropped. The contempt application is disposed of.

**INDIRA BANERJEE, J**

**ANIL KUMAR CHAWLA, J**

**FEBRUARY 15, 2017/mw**