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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 468/2016

K L BHASIN

..... Petitioner

Through: Mr. Umesh Mishra, Advocate.

versus

MILIND KHARAT & ORS

..... Respondents

Through: Ms. Ananya De, Advocate for Mr. A.K.
De, Advocate.

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Date of Decision: 18th April, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present contempt petition has been filed alleging wilful disobedience of order dated 13th March, 2015 passed in W.P.(C) 4293/2014 whereby respondent No.1 was directed to accept resignation of petitioner dated 17th November, 2009 and was further directed to pay the dues payable to the petitioner as a resigned employee within three months after deducting three months notice pay.
2. Learned counsel for petitioner states that vide e-mail dated 06th July, 2015, respondent No.1 denied the petitioner any benefits in accordance with amended Scheme 2010. He states that though the petitioner gave his resignation vide letter dated 17th November, 2009, yet the same was

accepted only after the order dated 13th March, 2015 was passed in W.P.(C) 4293/2014.

3. Learned counsel for petitioner further states that as the resignation of the petitioner had been accepted after the amended Scheme 2010 had been implemented, petitioner is entitled to the benefit of the Scheme as well as for other benefits.

4. Learned counsel for the respondent states that resignation of the petitioner was directed to be accepted w.e.f. 17th November, 2009 and not when the order was passed. Consequently, according to her, no additional benefits are payable to the petitioner.

5. It is settled law that the contempt of Court is a quasi criminal act and the standard of proof required is that of the criminal proceeding and the breach or wilful disobedience has to be established beyond all reasonable doubt. In fact, the Supreme Court in ***All India Anna Dravida Munnetra Kazhagam vs. L.K. Tripathi and Ors., (2009) 5 SCC 417*** has held that expression wilful excludes casual, accidental, bona fide or unintentional acts or genuine inability to comply with the terms of the order. It was further held that the petitioner who complains of breach of the Court's order must allege deliberate or contumacious disobedience of the Court's order.

6. Since in the present case, the issue whether the petitioner is entitled to amended Scheme 2010 and/or any other benefit was neither argued nor adjudicated upon, this Court is of the view that respondent cannot be held guilty of contempt.

7. This Court is also of the opinion that in contempt jurisdiction it cannot hold anyone guilty by the process of deduction and that too on the basis of surmises and conjectures.

8. Accordingly, present contempt petition is dismissed and notices issued are discharged.

9. However, if the petitioner is of the opinion that he has not been paid his full dues, he is at liberty to file appropriate proceedings in accordance with law. Rights and contentions of all the parties are left open.

APRIL 18, 2017

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MANMOHAN, J