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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 618/2016

STAFF OF JANTA SECONDARY SCHOOL & ANR Petitioners
Through: Dr. Ashwani Bhardwaj, Advocate.

versus

SAUMYA GUPTA

..... Respondent

Through: Mr. Satyakam, Advocate with
Dr. Mallikarjua, DDE, Zone-10.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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24.04.2017

Present contempt petition has been filed alleging wilful disobedience of the order dated 08th September, 2015 passed in LPA No.468/2010 whereby the respondent-Directorate of Education was directed to treat the twenty employees who had marched under the banner of the petitioner association as permanently absorbed in the Government school where they were initially temporarily adjusted.

Dr. Ashwani Bhardwaj, learned counsel for petitioners states that in pursuance to the aforesaid direction, petitioners have not been permanently absorbed since 02nd August, 2001—the date on which the petitioners had been adjusted in the Government School.

Dr. Bhardwaj also states that the office order dated 31st August, 2016 is not in accordance with the Division Bench order inasmuch as it states that

the petitioners may be adjusted in any other Government School where the vacancy exists.

On the other hand, learned counsel for respondent states that the Division Bench order dated 08th September, 2015 did not fix any date of permanent absorption of the petitioners. He further states that the order dated 31st August, 2016 has been clarified by a subsequent office order dated 24th November, 2016 wherein it has been stated that eight surviving employees of petitioner association shall be absorbed in the Directorate of Education, Government of NCT of Delhi.

Having heard learned counsel for parties, this Court is of the view that the Division Bench had only directed that employees would be treated as permanently absorbed in the Government School where they were initially temporarily adjusted. Neither any argument with regard to date of permanent absorption of the petitioners was advanced by either of the parties before the Division Bench nor the same was adjudicated upon.

Consequently, there is no order or direction directing permanent absorption of petitioners since 02nd August, 2001 in the order dated 08th September, 2015 passed by the Division Bench.

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.

However, this Court is in agreement with the learned counsel for petitioners that the benefit of the Division Bench order dated 08th September, 2015 has to be given to all the twenty employees and none of the twenty employees can be adjusted in any other Government school.

This Court is also of the view that the office order dated 24th November, 2016 to the extent it states that eight employees will be treated as permanently absorbed in the Directorate of Education is not in consonance with the Division Bench order.

Consequently, the office order dated 24th November, 2016 is set aside and it is directed that the last paragraph of the order dated 31st August, 2016 shall read as under:-

“NOW THEREFORE, in compliance of this judgment dated 08.09.2015 in LPA No.468/2010, keeping in view of the provision of rule 47 of DSER, 1973, all the 20 employees who were the beneficiary of the aforesaid order would be treated as permanently absorbed in the Govt. Schools, where they were initially temporarily adjusted.”

With the aforesaid amendment of the office order, the present contempt petition stands disposed of.

MANMOHAN, J

APRIL 24, 2017

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