

\$~27

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

+ **CONT.APP.(C) 13/2019, CM APPL. 48537/2019**

LAKHVINDER KAUR Appellant

Through: Mr. Atul Kumar, Adv.

versus

SANJAY GOEL & ORS Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **08.11.2019**

C.M. No. 48537/2019 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CONT.APP.(C) 13/2019

3. In the present contempt appeal, the appellant has sought following reliefs:

a. Punish the Contemnors/ Respondents for violation and non-implementation of the order dated 02.05.2018 in Cont. Cas (c) No. 797 of 2017 read with order dated 24.07.2018; and

b. Direct the Contemnors/ Respondents to implead the order dated 02.05.2018 in Cont. Cas (c) No. 797 of 2017 read with order dated 24.07.2018 in Cont. App. (c) No. 9 of 2018;

4. The grievance of the appellant is that on account of non-compliance of

the judgment rendered by this Court in W.P.(C) 3616/2017 on 28.04.2017, the respondents did not pay the service benefits to the petitioner as per the pay-scales and monetary emoluments payable to the employees of the schools in Delhi by applying the order of the Directorate of Education dated 11.02.2009. Despite the delay, they neither paid the principle amount nor the interest in terms of the order dated 28.04.2017. Consequently, the appellant preferred the contempt case bearing No. 797/2017. The Court dealing with the contempt petition vide order dated 02.05.2018, directed the petitioner to make a representation to the Directorate of Education within two weeks. The Court also directed that in case, the representation is received, the Director of Education shall ensure that the benefit of the recommendation of the 6th Pay Commission for the period of three years prior to filing of the writ petition is granted to the petitioner and that the pay is accordingly re-fixed. The fate of the recommendation was required to be communicated within six weeks. Consequently, the appellant preferred the Contempt Appeal (C) No.9 /2018. The appellant had made a representation to the Director of Education on 30.07.2018 which has not been actioned and consequently, the present appeal has been preferred.

5. We have put it to the learned counsel for the appellant that no appeal is maintainable under Section 19 of the Contempt of Courts Act, 1971 against an order passed by the Court in contempt proceedings unless the order is of the conviction or punishment. This position is well settled in law by the decisions of the Supreme Court in *D. N. Taneja v. Bhajan Lal* (1988) 3 SCC 26 .

6. Since the respondents have not actioned the representations made by the appellant, in our view, the said failure on the part of the respondents gives rise to a fresh cause of action to the appellant and the appellant may accordingly, prefer a fresh contempt proceeding.

7. In view of the above, the appeal is not maintainable and same is accordingly dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 08, 2019

Pallavi