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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 26th November, 2020
+ **CONT.CAS(C) 737/2020 & CM APPLs. 28837-38/2020**
ASHOK HOTEL MAZDOOR JANTA UNION Petitioner

Through: Mr. Barun Kumar Sinha and Mr. Anil
Kumar, Advocates.

versus

MR. G KAMALA VARDHNA RAO, CHAIRMAN AND
MANAGING DIRECTOR, ITDC LTD & ANR. Respondents

Through: Mr. Ravi Sikri, Senior Advocate with
with Mr. Deepank Yadav, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

CM APPL. 28838/2020

2. This is an application for condonation of delay of 39 days in filing the contempt petition. For the reasons stated in the application, the delay is condoned. Application is disposed of.

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3. This contempt petition has been filed on the strength of the order dated 27th March, 2012. The operative portion of the said order reads as under:

“Considering all the facts and circumstances, the petitioner- management is directed to pay to the workers involved in this case wages @ Rs.15,000 per month, which shall be subject to the final outcome of the writ petition and further subject to the workmen giving an undertaking to this Court in writing that they shall refund the amount over and above the minimum wages which they are getting

to the management in case its writ petition is allowed. This undertaking shall be furnished by them within three weeks and thereafter petitioner shall make the payment of wages @ Rs.15,000 per month, as directed aforesaid, from the date of filing of the writ petition till its disposal. The arrears upto March, 2012 shall be cleared within four weeks and future payments shall be made on or before 10th day of each succeeding month. This application stands disposed of accordingly.”

4. The contention of the Petitioner - Union is that it has 35 members. Mr. Anil Kumar, Id. counsel submits that the workmen who are members of the Union are not being paid in terms of the above order and are in fact being paid only Rs.6,600 per month from June, 2020. Hence, the present petition seeking compliance of order dated 27th March, 2012.

5. On 11th November, 2020, when the present petition was listed, Mr. Ravi Sikri, Id. Senior counsel appearing for the Respondents, was requested to seek instructions. He has reverted today and submits that there are three categories of workmen whose salaries have either not been paid or have been slashed during this period. He submits that this may have happened due to the following reasons:

- i. In view of the pandemic, the services of the workmen may not have been required during the entire period. In order to ensure that all the workmen are not jobless, the Contractor was directed to cut-down the man-days of these workmen by half and accordingly, half of the salary may have been released.
- ii. Some workmen have left employment or abandoned and have not come back. In such cases, salaries have not been paid.
- iii. In some cases, for various misdemeanours, disciplinary action

has been initiated.

6. Insofar as category (i) is concerned, Mr. Sikri, Id. Senior counsel submits that a notification and roster has been released directing the Contractor to employ all the workmen falling in this category for a full term of 26 days and accordingly, their salaries would be released. Insofar as workmen in categories (ii) and (iii) are concerned, the Respondent would be taking action in accordance with law against all these workmen.

7. Ld. counsel for the Petitioner submits that in view of the fact that since June, 2020 payment has not been made, even the arrears ought to be paid.

8. On an overall consideration of the facts and circumstances of the case, there is no doubt that the order dated 27th March, 2012 would apply in respect of such workers who have been working with the Respondent. The list of the 35 members is available with the Respondent. Considering the submissions made, it is directed as under:

a. Insofar as category (i) workmen are concerned, the Respondent shall make the entire payment along with arrears even for the lockdown period in terms of the order dated 27th March, 2012.

b. Insofar as workmen falling in category (ii) or (iii) are concerned, this Court is not making any observation.

c. Insofar as the 35 workmen of the Petitioner-Union are concerned, the Respondent is permitted to evaluate the status of the said workmen. So long as they fall in category (i), they shall be paid arrears and future payment shall be in accordance with the order dated 27th March, 2012.

d. If the Petitioners fall in category (i), the payment of arrears shall be made within six weeks. In future, the monthly salary shall be

released as was being paid in the past, in compliance with the order dated 27th March 2012.

9. With these observations, the contempt petition is disposed of. All pending applications are also disposed of. If the Petitioner-Union or any of its members have any grievance in respect of any action taken by the Respondent, they are permitted to bring the same to the notice of the Respondent by means of a communication. If no redressal is given within two weeks, they are permitted to move an application in the present petition.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 26, 2020

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