

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 107 of 2020

*(Arising out of order dated 19.03.2020 passed by this Court in
Contempt Case No.1062/2019)*

- Surjeet Sen, S/o Late Shri Paritosh Sen, aged about 55 years, R/o C/o 15 A, Gurukul Parisar, Kalibadi Road, Raipur, District Raipur Chhattisgarh

---- Petitioner

Versus

- Vidyanath Singh Principal/ Secretary of Governing Body, Bhatkhande Lalit Kala Shiksha Samiti Gandhi Chowk, Office at Gurukul Parisar, Kalibadi Road, Raipur, District Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Yogesh Chandra Pandey, Advocate
For Respondent	:	None

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, P. R. Ramachandra Menon, Chief Justice

12.01.2021

1. This is an application to review and recall the order dated 19.03.2020 passed by this Court in Contempt Case No.1062/2019, whereby it was held that going by the sequence of events, there was no contemptuous act from the part of the Respondent/contemnor to initiate any proceedings with regard to the alleged non-compliance of the direction given by this Court in Writ Appeal No.77 of 2019.
2. The review petitioner points out that, there is some calculation mistake with regard to computation of time of 'eight weeks', as dealt with by this Court in paragraphs 12 and 13 of the judgment to the effect that the period of 'eight weeks' (56 days) will end only on 07.04.2019, which is not correct.

3. The context relates to the setting aside of the order of removal from service as per judgment passed by the learned Single Judge in Writ Petition (S) No.1901 of 2007, ordering reinstatement with 50% backwages. On appeal preferred by the Petitioner, claiming 100% backwages, it was allowed as per judgment dated 08.02.2019 (WA No. 77/2019), directing to reinstate the Appellant in service within 'two weeks' from that date and to pay the arrears within 'eight weeks', holding that the failure in clearing the arrears dues as aforesaid would make the Appellant eligible to get interest @ 6% per annum from the date of removal, till the date of payment.
4. The said judgment has become final in view of the dismissal of the SLP preferred by the Employer; followed by dismissal of the Review Petition; pursuant to which, the Petitioner was reinstated, who admittedly joined service on 25.02.2019. Shortly thereafter, the computation of dues was made, pursuant to Annexure-R/3 Resolution dated 03.04.2019, to pay the arrears of wages as directed by this Court and accordingly, a cheque bearing No.236768 dated 05.04.2019 for the sum of Rs. 32,40,276/- was prepared and the Petitioner was required to collect the same against the acknowledgement. Since the same was not collected by the Petitioner on that day, having left the Institution (which is an 'Evening College'), it could be deposited in the Petitioner's account only on the next date i.e. on 06.04.2019. However, the Petitioner sent various representations contending that the direction was not complied within the stipulated time. Contempt of Court proceedings were filed before this Court as 'Contempt Case

No.1062 of 2019'. The Respondent/contemnor appeared and filed the reply, supported with an affidavit on 16.01.2020, explaining the sequence of events. After hearing, it was observed by this Court that there was no contemptuous act / wilful disobedience to proceed against the contemnor for the alleged contempt and held that the Contempt of Court proceedings were not maintainable. After making much observations in paragraphs 10 and 11, this Court proceeded further to demonstrate the calculation with reference to the pleadings in paragraph 14 of the Contempt of Court proceedings (with reference to the time granted meaning to be '56 days', spread over in the 'eight weeks' from '08.02.2019') and noting the last date of 'eight weeks' as on '07.04.2019'. It was further observed in paragraph 13 that, the month of 'February 2019' was having only 28 days, which apparently was lost sight of the Petitioner which presumably made the Petitioner to launch the Contempt of Court proceedings, indirectly to pressurize the Respondent/contemnor to pay interest @ 6% per annum as well for the whole amount. It was accordingly observed in the next paragraph *i.e.* paragraph 14 of the verdict, that there was absolutely no merit in the Contempt of Court proceedings, which was dismissed accordingly.

5. Mr. Yogesh Chandra Pandey, the learned counsel for the Petitioner submits that there is a mistake in the calculation of days in paragraph 12, as fixation of last date of expiry of the period of 'eight weeks' and as to the observation in paragraph 13. In the said circumstance, the learned counsel seeks to review and recall the order and to initiate Contempt of Court proceedings against the Respondent.

6. It is evident from the discussion made in the order dated 19.03.2020 in the Contempt of Court proceedings that the Employer had passed a resolution on 03.04.2019 to pay arrears of wages to the Petitioner as directed by this Court and based on the said resolution, cheque was prepared on 05.04.2019 and as contended in paragraph 6 of the reply, the Petitioner was required to collect the same against the acknowledgement, but he did not turned up and had left the College without intimating the Respondent, which made the Respondent/contemnor to deposit the cheque directly in the account of the Petitioner on the next date i.e. on 06.04.2019 when the Bank was open. This was more so, since the Respondent - College was an 'Evening College' and by the time the cheque was prepared on 05.04.2019, the Bank had already been closed.
7. It was further noted by this Court that in response to the representation sent by the Petitioner, threatening of Contempt of Court proceedings, it was replied by the Respondent/contemnor as per Annexure-C/11 dated 15.06.2019, that they had complied with the direction in the order, effecting the deposit on time. Reference was also made to Annexure-R/5 letter dated 26.03.2019, written by the Petitioner to the Respondent/contemnor, alerting that the last date (as observed in paragraph 9 of the judgment) for complying with the direction in the verdict was '06.04.2019'. This Court noted the submission of the learned counsel for the Petitioner in the very same paragraph, that since the cheque was deposited on 06.04.2019, which was the date mentioned by the Petitioner in Annexure-R/5 dated 26.03.2019, there

was no violation of any direction and that the Contempt of Court proceedings was an abuse of the process of Court, contrary to the Petitioner's own version in Annexure-R/5. It was accordingly, that finding was rendered by this Court in paragraphs 10 and 11 in the following manner :-

“10. The primary question is to be considered whether there is any contumacious action on the part of the Respondent/contemnor showing the act of willful disobedience, so as to proceed against the contemnor and punish him in accordance with the relevant provision of law.

11. Going by the sequence of events, the resolution taken on 03.04.2019 by the Governing Body of the employer, the cheque was prepared on 05.04.2019 and it deposited on the next date i.e. on 06.04.2019, clearly demonstrating that there is nothing contumacious act on the part of the Respondent/contmenor in giving an effect to the direction given by this Court and as such, the contempt of Court proceedings are not maintainable.”

8. In the said circumstance, a clear finding has been rendered by this Court holding that the resolution taken on 03.04.2019 by the Employer to effect the wages and the preparation of the cheque on 05.04.2019 and deposit made on the very next date i.e. 06.04.2019 (which was the last date for effecting the deposit as informed by the Petitioner himself to the Respondent as per Annexure-R/5 dated 26.03.2019) clearly demonstrated that there was nothing contemptuous on the part of the Respondent/contemnor in giving effect to the direction given by this Court and as such, the Contempt of Court proceedings were not maintainable.

9. It is settled law that the cause of action will arise only if there is a 'wilful disobedience' of the direction given by this Court, which question has been answered in the 'negative' in paragraphs 10 and 11 of the order passed this Court on 19.03.2020. That apart, action for the alleged contempt is purely a matter between the Court and the contemnor, whereas the role of the Petitioner is only that of an 'informer'. The information furnished by the Petitioner has been considered, analysed and appreciated, leading to a specific finding that there was no wilful disobedience so as to initiate Contempt of Court proceedings. This Court is of the view that further deliberation, after the finding given in paragraphs 10 and 11, as contained in paragraph 12 and 13 of the Order with regard to the eligibility to get interest and the computation of the number of days was not necessary, as it does not come within the purview of Contempt of Court proceedings and hence the said paragraphs (paragraphs 12 and 13) of the Annexure-A/1 verdict dated 19.03.2020 stand deleted. 'Paragraph 14' of the order will be re-numbered and will stand intact as 'paragraph 12'.
10. The review petition is disposed of, modifying Annexure-A/1 verdict dated 19.03.2020 to the above limited extent.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge