



2024:DHC:3033



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

% **Date of order: 2nd April, 2024**

+ **CONT.CAS(C) 538/2024**

MAYA RAM SEMWAL Petitioner

Through: Mr.____, Advocate (Appearance not given)

versus

HOTEL CORPORATION OF INDIA Respondent

Through: Mr.A.P .Singh and Ms.Akshada
Mujwar, Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant contempt petition under Sections 11 and 12 of the Contempt of Courts Act, 1971 (hereinafter “the Act”) has been filed on behalf of petitioner seeking the following reliefs:-

“A) Initiate Contempt proceedings against the contemnor/respondent for wilfully and deliberately disobeying the Orders dated 6.5.2008 passed by this Hobbie Court in WP No. 4363;

B) Direct the respondents to release the salary of the petitioner along with back wages @ minimum wages forthwith;

C) Pass any other order(s) as this Hon'ble Court may deem fit and proper in the facts of this case.”

Signature Not Verified

Digitally Signed By: SARIKA
BHAMOO VERMA
Signing Date: 22.04.2024
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2. Learned counsel appearing on behalf of the petitioner submitted that the instant petition has been filed seeking initiation of contempt proceedings against the respondent for non-compliance of the order dated 6th May, 2008.
3. It is submitted that an award dated 17th August, 2008 was passed by the Industrial Tribunal – cum – Labour Court-II, directing the respondent to reinstate the petitioner with 25% back wages and other consequential benefits.
4. It is submitted that the above said award was challenged by the respondent before this Court in writ petition bearing no. W.P (C) 4363/2007, wherein, vide order dated 6th May, 2008, the present respondent was directed to pay the petitioner workman the last drawn salary or minimum wages whichever is higher from 24th July, 2007 till the pendency of the said writ petition.
5. It is submitted that the respondent paid the arrears till March, 2016 and no payment has been made thereafter. Furthermore, despite a reminder dated 26th February, 2019 sent to the respondent, no payment has been made towards the arrears and the future salary.
6. It is submitted that the respondent has shown scant regard to the directions passed in the above mentioned order and has wilfully disobeyed the order of this Court, therefore, contempt proceedings may be initiated against the respondent.
7. It is submitted that in view of the foregoing submissions, the instant petition may be allowed and the reliefs be granted as prayed for.
8. *Per Contra*, the learned counsel appearing on behalf of the respondent



vehemently opposed the instant petition submitting to the effect that the same being devoid of any merits is liable to be dismissed.

9. It is submitted that the petitioner has been unable to make out a case for contempt of this Court and there is no wilful disobedience on the part of the respondent.

10. It is submitted that by way of the instant petition, the petitioner is merely abusing the process of law which makes the instant petition bereft of any merits. Therefore, the same may be dismissed by this Court.

11. Heard the parties and perused the record.

12. It is the case of the petitioner that the respondent has wilfully disobeyed the directions of this Court passed in writ petition bearing no. W.P (C) 4363/2007, wherein, vide order dated 6th May, 2008 where the respondent was directed to pay the arrears of salary every month till the disposal of the above stated writ petition, and therefore the contempt proceedings may be initiated against them.

13. In rival submissions, the respondent refuted the contentions advanced by the petitioner and submitted that the petitioner has not made out any grounds to show the wilful disobedience on part of the respondent.

14. This Court has perused the records including the order dated 6th May, 2008 as well as the reminder dated 26th February, 2019 sent by the petitioner.

15. As per Section 20 of the Act, limitation period to initiate proceedings for contempt of Courts is one year and a Court cannot initiate the proceedings for the contempt of Court after the lapse of one year when the



cause of action arose. The relevant portion of the said provision is as under:

“20. Limitation for actions for contempt.—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

16. With regard to the issue of limitation, this Court is of the view that the provisions of Section 20 of the Act places a bar on initiation of any proceeding of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed, i.e., the alleged cause of action. Similar observations have been made by the Hon’ble Supreme Court in ***Pallav Sheth v. Custodian*, (2001) 7 SCC 549**, relevant paragraphs of which are as under:

“..19. In Firm Ganpat Ram Rajkumar v. Kalu Ram [1989 Supp (2) SCC 418 : 1989 Supp (1) SCR 223] where an order of this Court ordering delivering of premises had not been complied with, an application was filed for initiation of contempt proceedings. A contention was raised on behalf of the alleged contemner based on Section 20 of the Contempt of Courts Act, 1971. Dealing with this contention, this Court observed as follows: (SCC p. 423, para 7)

“7. Another point was taken about limitation of this application under Section 20 of the Act. Section 20 states that no court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. In this case, the present application was filed on or about 3-11-1988 as appears from the affidavit in support of the application. The contempt consisted, inter alia, of the act of not giving the possession by force of the order of the learned Senior Sub-



Judge, Narnaul dated 12-2-1988. Therefore, the application was well within the period of one year. Failure to give possession, if it amounts to a contempt in a situation of this nature is a continuing wrong. There was no scope for application of Section 20 of the Act.”..”

17. Upon perusal of the above judgment, it is observed that the Court should not deal with a petition for contempt after expiry of one year from the date the contempt is alleged to have been committed. In view of Section 20 of the Act, the Court has no jurisdiction to take cognizance beyond one year of the act or omission committing or constituting contempt of the Court.

18. In light of the facts of the present case, it is observed that allegedly the cause of action arose in March, 2016 when the respondent stopped paying the petitioner in accordance with the directions of this Court and aggrieved by the same, the petitioner sent a reminder on 26th February, 2019 and finally approached this Court in the year 2024.

19. In view of the settled position of law, it is clear that when a party has been negligent in enforcing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law.

20. This Court is of the view that when the delay is directly a result of negligence, default or inaction of a party, the said party cannot be allowed to agitate its disputes as the same might amount to injustice to other party. Justice must be done to both parties equally and then alone, the ends of justice can be achieved.



21. Provision for limitation is enacted with the objective to ensure that the parties do not resort to dilatory tactics and seek remedy without any unreasonable delay. One of the underlying principles behind insertion of limitation is to make the petitioners/aggrieved persons vigil about their rights so that they can act diligently and not sleep over their rights.

22. Insofar as the dispute in the instant petition is concerned, as per the statutory mandate of the Act, the period of limitation to seek initiation of contempt proceeding is one year.

23. In view of the above, this Court is of the considered view that there is inordinate delay between the date of the alleged cause of action and the date when the petitioner approached this Court which makes the instant contempt petition barred by the law of limitation under Section 20 of the Act.

24. In light of these facts, it is held that the instant petition is filed beyond the stipulated time. Therefore, the same is liable to be dismissed in view of the aforesaid terms.

25. Accordingly, the instant petition stands dismissed. Pending applications, if any, also stand dismissed.

26. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

APRIL 2, 2024

dy/ryp/av

Click here to check corrigendum, if any