



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**COCP No.1579 of 2024 (O&M)
Date of Decision: 27.05.2025**

VIRENDER RAJPUT**.....Petitioner****Vs****ASHOK KUMAR MEENA AND ORS.****....Respondents****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Vishal Gupta, Advocate and
Mr. Abhishek Sharma, Advocate for the petitioner.

Mr. Sunish Bindlish, Advocate for the respondents.

HARKESH MANUJA, J. (Oral)

1. Rejoinder to the reply filed on behalf of the respondents and an additional affidavit of Ms. Sharandeep Kaur Brar, IAS, General Manager (Region), Food Corporation of India, Regional Office, Haryana have been filed in Court, the same are taken on record.
2. By way of present petition filed under Article 215 of the Constitution of India read with Sections 10 & 12 of the Contempt of Courts Act, proceedings are sought to be initiated against the respondents on account of alleged willful non-compliance of order dated 24.11.2017 passed by this Court in CWP No.24916 of 2017. The operative part thereof is extracted hereunder:-

“7. Taking into consideration the facts & circumstances of the case in hand, this Court is of the view that grant of interest @ 9% per annum, on the delayed payment after expiry of three months from the date of retirement of petitioners/ date of accrual till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment from expiry of three months from the date of retirement of petitioners/ date of accrual to actual date of payment, which shall be paid by the respondents after calculating the same within a period of three months from the date of receipt of certified copy of this judgment. Further, a direction is issued to the respondents to consider the claim of petitioner(s) in case any payment/arrear is pending towards them



including interest, if any in the above terms, within a period of three months. In case, petitioners still feel aggrieved they shall be at liberty to approach this Court.”

3. In response to notice of motion, respondents appeared and filed reply by way of affidavit dated 22.11.2024 while submitting that the compliance of order passed by the Writ Court stands made.

4. Plea has been set up by the petitioner that the complete payment of interest has not been released and, thus it was a continuous cause of action.

5. Learned counsel for the respondents opposes the present petition while submitting that the contempt petition filed at the instance of petitioner was barred by limitation as the order by the Writ Court was passed on 24.11.2017 whereas the present contempt petition was filed before this Court after a gap of more than 6½ years on 03.05.2024 only.

6. In support, learned counsel for the respondent relies upon latest decision passed by the Hon'ble Apex Court in **S. Tirupathi Rao vs. M. Lingamaiah & Ors.**, reported as '2024 AIR Supreme Court 3738' to contend that even in case of continuing wrong such plea was required to be specifically pleaded in the contempt proceedings followed by its proof from the records. The relevant paragraphs Nos.56, 71 & 72 thereof are extracted hereunder:-

“56. A caveat needs to be added here. For a “continuing wrong/breach/offence” to be accepted as a ground for seeking exemption in an action for contempt, the party petitioning the court not only has to comprehend what the phrase actually means but would also be required to show, from his pleadings, the ground resting whereon he seeks exemption from limitation. Should the party fail to satisfy the court, the petition is liable to outright rejection. Also, the court has to be vigilant. Stale claims of contempt, camouflaged as a “continuing wrong/breach/offence” ought not to be entertained, having regard to the legislative intent for introducing section 20 in the Act which has been noticed above. Contempt being a personal action directed against a particular person alleged to be in contempt, much of the efficacy of the proceedings would be lost



by passage of time. Even if a contempt is committed and within the stipulated period of one year from such commission no action is brought before the court on the specious ground that the contempt has been continuing, no party should be encouraged to wait indefinitely to choose his own time to approach the court. If the bogey of “continuing wrong/breach/offence” is mechanically accepted whenever it is advanced as a ground for claiming exemption, an applicant may knock the doors of the Court any time suiting his convenience. If an action for contempt is brought belatedly, say any time after the initial period of limitation and years after the date of first breach, it is the prestige of the court that would seem to become a casualty during the period the breach continues. Once the dignity of the court is lowered in the eyes of the public by non-compliance of its order, it would be farcical to suddenly initiate proceedings after long lapse of time. Not only would the delay militate against the legislative intent of inserting section 20 in the Act (a provision not found in the predecessor statutes of the Act) rendering the section a dead letter, the damage caused to the majesty of the court could be rendered irreparable. It is, therefore, the essence of justice that in a case of proved civil contempt, the contemnor is suitably dealt with, including imposition of punishment, and direction as well is issued to bridge the breach.

71. *First, it is trite that the court cannot traverse beyond the pleadings and make out a case which was never pleaded, such principle having originated from the fundamental legal maxim secundum allegata et probate, i.e., the court will arrive at its decision on the basis of the claims and proof led by the parties. The assertion of the contumacious conduct being in the nature of a “continuing wrong/breach/offence” is factual and has to be borne from the pleadings on record. Law is, again, well-settled that when a point is not traceable in the pleas set out either in a plaint or a written statement, findings rendered on such point by the court would be unsustainable as that would amount to an altogether new case being made out for the party. Absent such pleading of there being a “continuing wrong/breach/offence”, the finding returned by the Single Judge, since affirmed by the Division Bench (review), cannot be sustained in law.*

72. *Even if a point of “continuing wrong/breach/offence” is traceable in the pleadings, the court ought not to accept it mechanically; particularly, in entertaining an action for contempt, which is quasi-criminal in nature, the court should be slow and circumspect and be fully satisfied that there has indeed been a “continuing wrong/breach/offence.”*

7. I have heard learned counsel for the parties and gone through the paper book.



8. In the humble opinion of this Court, undoubtedly as per the decision rendered by the Hon’ble Apex Court in S. Tirupathi Rao’s case (supra), even in case of continuing wrong/breach/offence, specific pleadings have to be made in the contempt proceedings, however, it is most humbly observed that in the given case wherein the interest @ 9% per annum on the delayed payment has been ordered from expiry of three months of the date of retirement of petitioner till the actual date of payment; once from the contents of order itself the cause of petitioner is apparently based on continuous wrong, in such circumstances mere fact that the words ‘continuous wrong’ were not pleaded in the contempt petition by the petitioner would not be fatal to his cause and accordingly the plea raised by the respondents of present contempt proceedings being barred by limitation is hereby rejected.

9. Even on merits, perusal of records shows that the interest from the date of entitlement of petitioner towards grant of benefit of stagnation increment and arrears of salary has to be given.

10. At this stage, since the plea of present petition being barred by limitation has not found favour with the Court, learned counsel for the respondents submits that remaining amount towards full and final settlement shall be released to the petitioner within one month from today.

11. In view of aforesaid stand taken by the respondents, the present petition is disposed of. Rule stands discharged.

12. Pending application, if any, shall stand disposed of.

May 27, 2025
Atik

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No