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

+ CONT.CAS(C) 905/2015

AJAY KUMAR SHARMA & ORS

.....Petitioners

Through: Mr. Prakash Khandelwal, Advocate
for P-12.

versus

B K AHUJA & ORS

.....Respondents

Through: Mr. Aditya Narayan Tripathy and Dr.
Kedar Nath Tripathy, Advocates.

+ CONT.CAS(C) 85/2016

AJAY KUMAR SHARMA & ORS

.....Petitioners

Through: Mr. Prakash Khandelwal, Advocate
for P-12.

versus

B K AHUJA & ORS

.....Respondents

Through: Mr. Aditya Narayan Tripathy and Dr.
Kedar Nath Tripathy, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **01.04.2026**

1. This hearing has been done through hybrid mode.
2. The present petitions under Section 2(b) read with Section 12 of the Contempt of Courts Act, 1971, have been filed, *inter alia*, seeking wilful disobedience of order dated 06.02.2015 in **W.P.(C) 6367/2014**, and order dated 05.01.2016 in **W.P.(C) 6737/2015** passed by the learned Coordinate Bench of this Court.
3. *Vide* order dated 06.02.2015 in **W.P.(C) 6367/2014**, following



directions were passed: -

“4. In view of the above, this writ petition is allowed. The petitioners from a period of three years prior to filing of their representation and thereafter continuously, of course as per applicable guidelines, will be paid their salaries on the higher pay scale in terms of the 6th Central Pay Commission report and the notification of the Director of Education dated 11.2.2009. The arrears and differences of the salaries be paid to the petitioners within a period of six months from today, as agreed by the parties. The amounts which would be payable to the petitioners will be directly credited into the bank accounts of the petitioners. Respondent no.1 can obviously adjust those amounts which are already paid to the petitioners.”

4. *Vide* order dated 05.01.2016 in **W.P.(C) 6737/2015**, following directions were passed: -

“7. Having heard the learned counsel for the parties and noting the fact that the concerned officer of the Directorate has filed a chart quantifying the amount of arrears to be paid to each of the petitioners and the respondent Nos.1 & 2 also does not dispute the salary has not been paid since February, 2015 and the fact that the chart has been prepared by the Education Officer to which no response has been filed, the computation cannot be doubted, the relief as prayed for by the petitioners need to be granted including HRA and TA. As I note the arrears of salary still to be paid after adjusting the amount already paid, being substantial, this Court is of the view that the respondent Nos.1 & 2 shall pay the amount in terms of the revised chart filed today by Mr.Aggarwal, (a copy of which has been given to counsel for the parties including the counsel for respondent Nos.1 & 2) in three monthly instalments to each of the petitioners, starting from this month, to be paid on or before January 15, 2015 and the balance two instalments on or before 7th day of February and March, 2016.”

5. The petitioner herein are teachers in service and a few other staff of Dilshad Public School, which is a private un-aided recognised school run by Dilshad Public Education Society (Regd.), and respondent Nos.1 and 2 are Secretary and President respectively of the said Society. *Vide* order dated



06.02.2015, the respondents were directed to pay salary and allowances as per sixth pay commission for a period of 3 years prior to filing of their representation and continuously thereafter.

6. It was the case of the petitioners that instead of paying any arrears in terms of the said order the respondents stopped payment of even meager salary which was being paid earlier from February 2015. Subsequently, another petition, **W.P.(C) 6737/2015**, in July 2015 was filed on behalf of the petitioners seeking relief that directions be issued to respondent Nos.1 & 2 to forthwith *credit* full salaries as payable to them for the period February 2015 to August 2015, in which *vide* order dated 05.01.2016 direction in respect of payment of salary for the period February 2015 to August 2015 was passed.

7. Again, as per petitioners, respondents did not pay proper salary and stopped paying the same and contempt petition, **CONT. CAS.(C) 905/2015**, for wilful disobedience of order dated 06.02.2015 was filed for not paying the arrears for 3 years prior to the date of representation, and stopping of salary from September 2015. Another petition, **CONT. CAS.(C) 85/2016**, was filed alleging wilful disobedience order dated 05.01.2016 in **W.P.(C) 6737/2015**.

8. During the pendency of the present petitions, on 21.11.2023 before learned Predecessor Bench, it was submitted on behalf of respondent No.2 that, out of 13 employees/petitioners, who were employees of the school, 12 teachers from the faculty had already settled the matter with the school management and negotiations were stated to be ongoing with respect to petitioner No.12-Nand Kishore, who is the watchman and residing in the same campus.

9. Subsequently, an additional affidavit dated 27.05.2024 on behalf of respondent No.1 has been placed on record, wherein it was stated as under: -



“1. That I am presently working as Administrator of Dilshad Public School and am conversant with the facts of the case, as such I am authorized to swear this affidavit.

2. At the outset, it is submitted that all the teachers who were Petitioners in the above-mentioned Contempt Petition, have entered into the agreement with the Management of the school and have also given an affidavit to the effect that all the dues which are payable to them have been paid by the management of Dilshad Public School, Dilshad Garden, Delhi. The affidavits given by the teachers are enclosed herewith as **Annexure-A (Colly)**. In view of the above development, the present Contempt Petition filed by the teachers may kindly be disposed of by this Hon'ble Court.

3. As regards the Contempt Petition filed by Petitioner No.12 (Mr. Nand Kishore), it is respectfully submitted that Dilshad Public School had already paid an amount of Rs.3,71,775/- to the Petitioner No.12 as arrears of Pay Commission recommendation. Over and above this amount, the Petitioner No.12 is not entitled for any benefits under the Pay Commission recommendation because it is his admitted case that he was employed as a Chowkidar-cum-Watchman in the school and was paid a low salary and in view of the same, the Petitioner No.12 was given a room in the school itself to live with his family. Once it is admitted by the Petitioner himself that he has not been given salary and an accommodation was given by the school, the Petitioner No.12 cannot now turn back and seek salary as per the recommendations of 6th Pay Commission. Petitioner No.12 is blowing hot and cold and in the Civil Suit, which is filed against him, he is contending that in lieu of the low salary, an accommodation was given to him and in the present case, the Petitioner No.12 is seeking implementation of recommendations of 6th Pay Commission, which he is not entitled in view of his own admission before the court of law. A true copy of the reply to the Application under Order 39 Rule 4 of CPC filed by Petitioner No.12 in RSA No. 82/2023 before this Hon'ble Court is enclosed herewith and marked as **Annexure-B**. The Management of the School seriously refutes the contention of the Petitioner No.12 that he is staying in the premises with permission from the Management. In fact, the Management had filed a Civil Suit for eviction and the same was decreed in favour of the Management. The First Appeal preferred by the Respondent No.12 having



dismissed, the Second Appeal filed by him is pending for framing of issues before this Hon'ble Court. Without prejudice to the above submission, it is submitted that Petitioner No.12 has been living inside the school premises for the last many years and has not been paying any rent and is also using all the facilities of the school including electricity and water to the fullest extent.

4. It is respectfully submitted that during the year 2020-2022, the entire school was closed due to Covid-19 pandemic. The Petitioner No.12 has been using the entire school for his personal necessity and the total electricity bill for the period April 2020 to March 2022 is about Rs.3,29,3601-. The Petitioner No.12 was staying with his family lavishly and was using the school premises by putting air-conditioner throughout the day and the entire bill is being paid by the Management of the School. The Management has sought the refund of the entire amount from Petitioner No.12. It is pertinent to mention here that the school collect fees from the students for giving education to them and also for payment of salary etc. to the teachers/staffs and maintenance of the school. It is nowhere contemplated that the school fees of the students should be used to pay the electricity bill of a chowkidar that also runs to Rs.20,0001- per month (approx.) . Therefore, the Petitioner No.12 is not entitled for any benefit under the recommendations of 6th Pay Commission. In fact, the Petitioner No.12 has to refund an amount of Rs.3,29,3601- towards electricity bill paid on his behalf by the school.

5. It is also relevant to mention here that admittedly the Petitioner No.12 has been doing a part time job by conducting a Omelette shop in front of the school. The Delhi School Education Act very specifically prohibits an employee from doing a part time job. In the present case, it is an admitted case of the Petitioner No.12 that he has been permitted to do part time job. It is relevant to mention here that the Petitioner No.12 is not attending the school, but has been doing his part time job. The school had issued number of memos to Petitioner No.12 to comply with the directions, but he has not heeded to any of the memos. It is also relevant to mention here that the Omelette shop which is run by the Petitioner No.12 is very famous and his shop can be seen in YouTube also. Some of the photographs of the Petitioner No.12 running his shop is annexed herewith and marked as **Annexure-C (Colly)**.



6. In view of the above, it is humbly prayed that the Petitioner No.12 is not entitled for any benefits of the recommendations of the 6th Pay Commission in view of the statutory bar in the Rule 123(viii) read with Rule 124 of the Delhi School Education Rules, 1973 which specifically mandate that an employee of a school shall not accept any job of a remuneration character from any source other than the school or engage himself in any business. In the present case admittedly the Petitioner No.12 is running an Omelette shop in the evening i.e. during his duty hours and hence he is not entitled for any benefit of the recommendations of 6th Pay Commission.

7. In view of the above, it is respectfully prayed that this Hon'ble Court may be please to dismiss the Contempt Petition by Petitioner No.12 with exemplary cost.”

10. Learned Predecessor Bench, while taking note of the aforesaid averments made on behalf of respondent No.1 in additional affidavit dated 27.05.2024, had passed the following order on 02.09.2025: -

“1. Learned counsel respondent no.1 submits that out of 13 petitioners, as many as 11 petitioners being teachers and one being maid of Dilshad Public School, Dilshad Garden, Delhi have already been paid dues in compliance with the order dated 06.02.2015 and therefore, there is no appearance on behalf of the said petitioners.

2. He further submits that qua petitioner no.12, the respondent no.1 has filed an affidavit, and it is the case of the respondent no.1, while relying upon Rule 123 of the Delhi School Education Act and Rules, 1973, that the petitioner no.12 is not entitled to any benefit, for various reasons, one amongst which is that the petitioner has been doing part time job by conducting an omelette shop in front of the School and therefore the present petitions qua him have become infructuous. In fact, the additional affidavit dated 27.05.2024 filed by the respondent no.1 contains the photographs of the said petitioner no.12, who is present in person. Upon being queried, the petitioner no.12



admits that the said photographs are indeed his photographs and wherein he is seen running the business. He further submits that he has been in this business since and from the year 2017.

3. On the other hand, disputing the same, learned counsel for the respondent no.1 submits that the petitioner no.12 has actually been carrying on the said business much prior thereto. In fact, he further submits that pursuant to a Notice issued by the respondent no.1, the petitioner no.12 has himself in his updated response thereto stated as under:-

“It is submitted that the service agreement is valid and enforceable even today. As per the said agreement, the applicant was allowed to do his part time work form 6 yo 9 pm. The applicant is ready to work in the school as an obedient servant. However it is submitted that the school should honour the above said service agreement and permit the applicant to do part time work as per the service agreement dated 31.3.2000.”

4. A copy of the said updated response has been handed over in Court and is taken on record.

5. At this stage, learned counsel for the appearing for the petitioner no.12 submits that he have not been supplied with a copy of the aforesaid additional affidavit. Learned counsel for respondent no.1 assures the Court that the same shall be supplied within a period of three days.

6. Learned counsel for the petitioner no.12 seeks and is granted four weeks’ time for filing response to the affidavit filed by learned counsel for the respondent no.1 on 27.05.2024.”

11. Learned counsel for petitioner No.12-Nand Kishore has submitted that the respondents have failed to pay the salary to the latter including arrears of Dearness Allowance in terms of the 6th pay commission w.e.f. 01.04.2006



along with other consequential benefits *at par* with his counterpart employees in terms of the orders for which compliance has been sought, and therefore, a case of wilful disobedience has been made out against the respondents.

12. *Per contra*, learned counsel for the respondents had submitted that the services of aforesaid petitioner has been terminated by the school and, while relying on Rule 123 of the Delhi School Education Act and Rules, 1973, it has been contended that, said petitioner is not entitled to any benefit, for various reasons, one amongst which is that he has been doing part time job by conducting an omelette shop in front of the school, and therefore, no case of wilful disobedience has been made out. It is further submitted that the said petitioner has filed a substantive writ petition, **W.P.(C) 11908/2025**, seeking, *inter alia*, payment of arrears of the salary, allowances, and other benefits including arrears of Dearness Allowance in terms of the 6th pay commission w.e.f. 01.04.2006 along with all consequential benefits, as also the payment of salary for the period 01.03.2016 till 16.07.2025 (date of which said petition was filed). Copy of the aforesaid writ petition has been handed over during the course of hearing and the same is taken on record.

13. Heard learned counsel for petitioner No.12 and respondents and perused the records.

14. At the very outset, it is pertinent to note that, as 11 petitioners/teachers and one maid of Dilshad Public School, Dilshad Garden, Delhi, have already been paid dues in compliance with the orders for which compliance has been sought, and there is no appearance on behalf of said petitioners. **Therefore, no further directions are required, and both the petitions are disposed of accordingly in respect of petitioner Nos.1 to 11 and 13.**

15. Insofar as the petitioner No.12 is concerned, learned counsel for the



respondent has submitted that his services have been terminated by the school on 22.08.2015, and as per additional affidavit filed on behalf of respondent No.1 an amount of Rs.3,71,775/- has been paid to said petitioner as arrears of Pay Commission recommendation. As per respondents, petitioner No.12 is not entitled for any benefits under Pay Commission recommendation over and above this amount as he was employed as a chowkidar-cum-watchman in the school and was paid a low salary, and in view of the same, was also given a room in the school itself to live with his family. It is further the case of the respondent No.1 that said petitioner is not entitled to any benefit as he has been doing part time job by conducting an omelette shop in front of the school, which although has been disputed by learned counsel for petitioner No.12. As per him, said petitioner has been in the alleged business since 2017.

16. Petitioner No.12 has also filed a substantive writ petition, **W.P.(C) 11908/2025**, on 16.07.2025 seeking, *inter alia*, payment of arrears of the salary, allowances, and other benefits including arrears of Dearness Allowance in terms of the 6th pay commission w.e.f. 01.04.2006 along with all consequential benefits which is pending adjudication before a Coordinate Bench of this Court. The prayers sought in the said petition read as under: -

“PRAYER:

- i. In view of the aforesaid, it is most respectfully prayed that this Hon'ble Court may be pleased to issue appropriate writ, direction to the respondent school to make payment of arrears of the salary, allowances and other benefits including arrears of Dearness Allowance in terms of the 6th pay commission w.e.f 01.04.2006 and all the consequential benefits thereof at par with his counterpart employees of the corresponding posts of the schools of the Delhi government;



ii. Direct respondent school to implement the recommendations of the 7th pay commission in the case of the petitioner w.e.f 01.01.2016 and to revise his pay-scales and benefits accordingly at par with his counterparts working in the schools of the Delhi Government and to pay his consequent arrears of wages and benefits along with Interest at the market rate;

iii. direct respondent school to pay to the petitioner due salary for the period 01.03.2016 till date;

iv. issue any appropriate writ, order or direction, directing the Respondent No.2/ Director of Education to take action in accordance with the provisions of Section 10 of the Delhi School Education Act, 1973 against the Respondent/School for aforesaid failures on the part of the Respondent/School;

v. Any other or further order as this hon'ble court deems fit and proper in the circumstances of the case may also be passed in favor of the petitioner. It is prayed accordingly.”

17. As per additional affidavit dated 27.05.2024 filed on behalf of respondent No.1, in the Civil suit filed on behalf the school against petitioner No.12 for eviction, he has contended that in lieu of low salary, an accommodation was given to him, and in the present petitions, he has been seeking implementation of recommendations of 6th Pay Commission. Further, for implementation of recommendations of 6th Pay Commission for which present petitions were filed, this petitioner has also filed a substantive writ petition, as noted hereinbefore, seeking the aforesaid prayers. Therefore, the issue of payment of arrears of the salary, allowances, and other benefits including Dearness Allowance in terms of 6th Pay Commission to petitioner No.12 is pending adjudication before the learned Coordinate Bench of this Court.

18. In these circumstances, no wilful disobedience of order dated



06.02.2015 in **W.P.(C) 6367/2014**, and order dated 05.01.2016 in **W.P.(C) 6737/2015**, in both the petitions *qua* petitioner No.12-Nand Kishore has been made out.

19. The present petitions are disposed of in the aforesaid terms.
20. Pending applications, if any, also stand disposed of accordingly.
21. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

APRIL 01, 2026/sn/ns