**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**CACP No. 23 of 2024 (O&M)
in COCP No. 3163 of 2023
Reserved on: 22.10.2024
Pronounced on: 12.11.2024**

Anand Mohan Saran and others .....Appellant

Versus

Anil Kumar ....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Ankur Mittal, Addl. A.G., Haryana
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana,
Mr. Saurabh Mago, DAG, Haryana and
Ms. Kushaldeep Kaur, Advocate
for the appellants.

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Vikram Vir Sharda, Advocate
for the respondent.

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SURESHWAR THAKUR, J.

1. The instant appeal has been directed against the order dated 19.9.2024, as passed by the learned Contempt Bench of this Court in COCP No. 3163 of 2023.

Brief facts of the case.

2. The respondent herein was appointed on the post of Assistant Director (Statistics) Industries and Commerce Department by way of direct recruitment. The services of the respondent were terminated vide order dated 8.9.2022 passed by appellant No. 1. The respondent herein challenged the said order of termination by filing CWP No. 24819 of 2022. Vide order dated 9.8.2023 (Annexure P-1)

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the said petition was disposed of and the termination order dated 8.9.2022 became set aside. However, liberty became reserved to the appellants herein to pass a fresh order qua the services of the respondent. After passing of the said order, the respondent approached the authority concerned, and, also apprised them with regard to the passing of the said order.

3. The operative part of the order dated 9.8.2023 (Annexure P-1) becomes extracted hereinafter.

> "*Consequently, the impugned order dated 8.9.2022 (Annexure P-28) is set aside with liberty to the respondents to pass a fresh order, in case the respondents intend to do so, after observing the rules of natural justice by giving due personal hearing to the petitioner as well as the private respondents so as to present their case before the authority concerned which is to decide about the eligibility of the petitioner in respect of the conditions mentioned in the advertisement qua the experience.*"

4. In pursuance to the said order, the competent authority concerned passed Annexure A-1.

5. The core issue relating to the eligibility criteria for the post of Assistant Director (Statistics) becomes alluded to, in paragraph of 4 Annexure A-1, annexure whereof became passed in pursuance to the verdict (supra) rendered by this Court. Paragraph 4 as borne in Annexure A-1 becomes extracted hereinafter,.

> "*4. The entire matter relates to the eligibility criteria for the post of Assistant Director (Statistics) which is covered under the Haryana Industries and Commerce (Group B) Service Rules, 2014 which reads as under:-*
>
> > *"No person shall be appointed to any post in the Service unless he is in possession of requisite qualifications and*

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experience specified in column 3 of Appendix B to these rules in case of direct recruitment and those specified in column 4 of the aforesaid Appendix in the case of appointment other than by direct recruitment:

Provided that where sufficient number of candidates belonging to the scheduled caste, backward classes, ex-servicemen and differently-abled candidates possessing the prescribed requisite experience are not available to fill up the vacancies reserved for them by direct recruitment, the commission or any other recruiting authority may relax the qualifications regarding experience to the extent of 50 percent after recording the reasons for doing so in writing."

6. After scrutiny being made by the competent authority of the documents presented by the respondent herein, the furnished experience certificates become tabulated thereins as under:-

Organization	Designation	From date	To date	Total Exp.	Nature of Duty	Salary/ M
National Small Industries Corporation	Chief Manager (Associate Company Secretary)	7/2/2011	30/8/2013	2 Y-6M-23D	Secretarial, Human Resources & MSME Promotion Schemes related work	24900
MTNL	Asst. Manager (CS)	27/10/2003	25/6/2010	6Y-7M-28D	Secretarial & Legal	24900

7. Subsequently, as unfolded by paragraphs 10 to 14, as occur in Annexure A-1, paras whereof become extracted hereinafter, it became explicitly expressed, that the requisite two years' experience at the supervisory level in manufacturing sector in a small, medium or large industry/Semi Government/Government Undertaking/Department did not become possessed by the present respondent, as such, his services became terminated.

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"*10. To verify the experience and to examine the matter further, letters were sent to Mahanagar Telephone Nigam Limited (hereinafter referred to as MTNL) and National Small Industries Corporation (hereinafter referred to as NSIC).*

11. MTNL intimated vide letter No. MTNL/CO/Pers./ Misc. File/2016, dated 13.11.2018 that Shri Anil Kumar has not worked at supervisory level but worked as Assistant Manager (Company Secretariat) under the Company Secretary Division of MTNL Corporate Office which is not a manufacturing unit/sector of MTNL. In view of clarification given by the Mahanagar Telephone Nigam Limited, it was found that Sh. Anil Kumar had not worked at supervisory level but worked as Assistant Manager (Company Secretariat) under the Company Secretary Division of MTNL Corporate office which is not manufacturing unit/sector of MTNL.

12. Letters dated 22.7.2020 was sent to NSIC seeking verification of the experience given by Shri Anil Kumar. NSIC replied vide letter dated 10.8.2020 stating that the certificate be sent to them on whatsapp on number-9213128964. The experience certificate was again sent to them vide letter KC/Admn/DIH/AA6/Verification/15212-A dated 24.09.2020. Thereafter, letters/emails dated 27.12.2023, 29.12.2020, 01.01.2024, 03.01.2024 and 18.03.2024 were sent to NSIC but no response has been received. Smt. Tina Prashar in her complaint and even during the hearing before me supplied a copy of the information received by her under RTI Act, 2005 vide NSIC letter No. SIC/HO/RTI/CPIO(77)/2018-19 Dt. 30.10.2018. The contents of the reply are as under-

S. No.	*Your Queries*	*Our Reply*
1.	*Your National Small Industries Corporation (NSIC) is meant to give technical guidance and financial assistance to entrepreneur who wants to set up SSI Units. Please intimate whether your Corporation is manufacturing also engaged directly, in manufacturing sector or not. If so, what items are manufactured by your Corporation and which places in India, please intimate.*	*NSIC is not engaged directly in manufacturing sector.*

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> *13. The above reply under RTI had also been supplied to Shri Anil Kumar. In response to the said document, no document whatsoever was presented by Shri Anil Kumar instead a reply was filed wherein he gave an interpretation to the Rule that experience is required in Manufacturing only in industry and not in Government undertaking/department. He also submitted that no fraud has been committed by him as the documents submitted by him considered by HPSC and he was selected on the basis of said documents.*
>
> *14. The rule requires minimum two years' experience at supervisory level in manufacturing sector in a Small, Medium or large Industry/Semi Government/Government Undertaking/Department. The reading of the RTI reply given by NSIC and the submissions made above make it clear that the experience before NSIC cannot be considered to be at supervisory level in manufacturing sector. Even the experience in MTNL does not fulfil the requirement of two years experience at supervisory level in manufacturing sector. Therefore, after considering all the facts, departmental service rules and after considering the submissions made by Sh. Anil Kumar in his written reply (though he failed to appear personally before this authority on two occasions on 10.04.2024 and later on 22.04.2024 despite the last opportunity), I am of the considered view that the requirement of two years experience at supervisory position level in Manufacturing sector is mandatory as per service rules and Sh. Anil Kumar does not possess the requisite experience. So, he does not fulfil the mandatory qualifications required for appointment for the post of Assistant Director (Statistics). Therefore, service of Sh. Anil Kumar as Assistant Director (Statistics), Industries and Commerce Department are hereby terminated."*

8. Be that as it may, subsequently, the respondent herein preferred COCP No. 3163 of 2023, before this Court, with a prayer therein to intiate contempt proceedings against the contemnors concerned, thus on account of the appellants herein purportedly wilfully

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disobeying the order (supra) passed by this Court on 9.8.2023. It has been further alleged therein that after the passing of the order dated 9.8.2023 (Annexure P-1), neither the termination of the respondent became revoked, nor his salary has been paid since the month of August 2022. However, the respondents in the said contempt petition averred, that in pursuance to the order dated 9.8.2023, a fresh speaking order dated 22.4.2024 was passed, wherebys the claim of the petitioner therein became again rejected.

9. The learned Contempt Court concerned, vide order dated 19.9.2024, passed the hereinafter order upon the COCP (supra).

> *"In view of the aforesaid facts, no merit can be found in the submissions made on behalf of the respondents that the petitioner merely having assailed the speaking order dated 22.04.2024 by way of fresh writ petition is not entitled for the benefit of arrears of salary as claimed by him as the remedies before the Contempt Court and the Writ Court are distinct and separate. The petitioner can always assail the fresh speaking order by way of filing civil writ petition, however, for want of effective compliance of the order passed in the earlier writ petition, he has the remedy of invoking contempt jurisdiction alleging the non-compliance to be willful and intentional.*
>
> *In such circumstances, having caused an in ordinate delay in implementing the order passed by the writ Court, the respondents have shown prima facie disrespect to the said order.*
>
> *At this stage, learned counsel representing respondents pray for time.*
>
> *List on 26.09.2024 for further orders."*

10. The order (supra), passed by the learned Single Judge (Contempt Court) has caused pain to the appellants herein and has led

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them to file thereagainst the instant appeal before this Court.

11. The respondent challenged the fresh termination order dated 22.4.2024 by filing CWP No. 10687 of 2024 which is pending adjudication before this Court.

Submissions of the learned counsels for the appellants

12. The learned counsels for the appellants have argued before this Court that since the speaking order dated 22.4.2024, has already been passed by the authority concerned, wherebys the order dated 9.8.2023 does become complied. Therefore, the contempt petition filed by the respondent herein was required to become declared to become rendered premature, and, was also liable to be disposed of as such. They have further argued that since the petitioner has also challenged the order dated 22.4.2024 by filing of CWP-10687-2024, therefore, no subsisting maintainable cause of action was left with the Hon'ble Contempt Court, to thus continue with the contempt petition (supra). Therefore, they submit that the impugned order dated 19.9.2024, as passed by the learned Single Judge, be quashed and set aside.

Submissions of the learned counsels for the respondent

13. On the other hand, the learned counsel appearing for the respondent has most vehemently contended, that the instant contempt appeal is not maintainable before this Court. In making the said submission, he refers to the provisions as embodied in Section 19 of the Contempt of Courts Act, 1971, (hereinafter referred to as 'the Act of 1971') provisions whereof becomes extracted hereinafter, whereins, it becomes mandated, that an appeal against the order passed by the Contempt Bench concerned, is maintainable but yet only against such

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an order or a decision, as becomes made by the Contempt Bench concerned, wherebys punishment for contempt becomes recorded.

> "***19. Appeals.**—(1) An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction "to punish for contempt"—*
>
> *(a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court;*
>
> *(b) where the order or decision is that of a Bench, to the Supreme Court:*
>
> *Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.*
>
> *(2) Pending any appeal, the appellate Court may order that—*
>
> *(a) the execution of the punishment or order appealed against be suspended;*
>
> *(b) if the appellant is in confinement, he be released on bail; and*
>
> *(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.*
>
> *(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).*
>
> *(4) An appeal under sub-section (1) shall be filed—*
>
> *(a) in the case of an appeal to a Bench of the High Court, within thirty days;*
>
> *(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.*"

14. The learned counsel for the respondent further submits, that once the termination order was set aside, therebys the employee was deemed to be in service, wherebys he became entitled to the salary

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attached to the said post. In support of his submission, he places reliance on a judgment passed by the Apex Court in case titled as ***Anantdeep Singh versus The High Court of Punjab and Haryana at Chandigarh and another***, reported in ***2024 SCC OnLine SC 2449***. The relevant paragraph of the judgment (supra) becomes extracted hereinafter.

> "*21. Once the termination order is set aside and judgment of the High Court dismissing the writ petition challenging the said termination order has also been set aside, the natural consequence is that the employee should be taken back in service and thereafter proceeded with as per the directions. Once the termination order is set aside then the employee is deemed to be in service. We find no justification in the inaction of the High Court and also the State in not taking back the appellant into service after the order dated 20.04.2022. No decision was taken either by the High Court or by the State of taking back the appellant into service and no decision was made regarding the back wages from the date the termination order had been passed till the date of reinstatement which should be the date of the judgment of this Court. In any case, the appellant was entitled to salary from the date of judgment dated 20.04.2022 till fresh termination order was passed on 02.04.2024. The appellant would thus be entitled to full salary for the above period to be calculated with all benefits admissible treating the appellant to be in continuous service.*"

Inferences of this Court

15. Before proceeding to determine the validity of the making of the impugned order, it is necessary to initially deal with the effect of the pendency of the apposite writ petition before this Court, thus directed against Annexure A-1, annexure whereof, became drawn in pursuance to the makings of the verdict (supra) by this Court. The apposite regulatory guidelines become underlined in the judgment

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rendered by the Apex Court in case titled as ***Modern Food Industries (India) Ltd and another versus Sachidanand Dass and another*** reported in ***1995 Supp (4) Supreme Court Cases 465*** The relevant paragraphs of the judgments (supra) become extracted hereinafter.

> "*2. The learned single Judge of the High Court by his order dated 10.1.1992 quashed the order of termination of the services of the first respondent, by the appellants and directed his reinstatement and payment of back-salary. Appellants preferred an appeal to the Division Bench and also sought a stay, pending appeal, of the operation of the learned single Judge's order. The Division Bench did not take up the appeal for admission nor considered the prayer for interlocutory stay. In the meanwhile, on the allegation that the learned single Judge's order had not been obeyed, the first respondent moved for initiation of proceedings for contempt against the appellants pursuant to which the High Court directed the Chairman of the first appellant to appear in person so that the complaint of contempt be proceeded with.*
>
> *3. Before the High Court, appellants urged that before any contempt proceedings could be initiated, it was necessary and appropriate for the Division Bench to examine the prayer for stay, or else, the appeal itself might become infructuous. This did not commend itself to the High Court which sought to proceed with the contempt first. We are afraid, the course adopted by the High Court does not commend itself as proper. If, without considering the prayer for stay, obedience to the Single Judge's order was insisted upon at the pain of committal for contempt, the appellants may find, as has now happened, the very purpose of appeal and the prayer for interlocutory stay infructuous. It is true that a mere filing of an appeal and an application for stay do not by themselves absolve the appellants from obeying the order under appeal and that any compliance with the learned single Judge's order would be subject to the final result of the appeal. But then the changes brought about in the interregnum in obedience of the order under appeal*

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> *might themselves be a cause and source of prejudice. Wherever the order whose disobedience is complained about is appealed against and stay of its operation is pending before the Court, it will be appropriate to take up for consideration the prayer for stay either earlier or at least simultaneously with the complaint for contempt. To keep the prayer for stay stand-by and to insist upon proceeding with the complaint for contempt might in many conceivable cases, as here, cause serious prejudice, this is the view taken in* ***State of J. and K. v. Mohammad Yaqoob Khan, (1992) 4 SCC 167.***

16. It has been forthrightly stated in the verdict (supra) that the contempt action has to be sparingly drawn, and, is to be avoided to be drawn, as a measure to coerce the purported errant litigant to make compliances with certain directions or orders, especially when the relief granted by the writ Court becomes appealed against, whereupon the outcome of the availed remedy by the purported errant litigant rather is prima facie required to be awaited. Moreover, thereins also occurs a trite underscoring to the effect, that the action for contempt has to become quartered within the tritely settled contours, inasmuch as, immense care and caution is required to be exercised by the Contempt Court, as ultimately the objective of rearing of an able contempt petition, thus is to ensure the maintaining of the majesty, and, dignity of self speaking binding orders/directions passed by the Courts of law.

17. Additionally if the order complained by the aggrieved to become purportedly disobeyed, is subjected to corrective remedial judicial action by the litigant against whom contempt action is raised, thus through the latter accessing the permissible corrective judicial remedies rather for therebys the apposite efforts being made for undoing the orders or mandamus', as become passed. Resultantly, the outcome

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of the said drawn corrective remedial judicial action is required to be awaited. Moreover, in case the litigant qua whom only a bridled or a restricted relief is granted, becomes aggrieved, therebys especially when also viz-a-viz the respondent herein, an abridged relief became granted, whereafters pursuant thereto orders became passed, besides when the respondent herein also has evidently availed the corrective remedies recourses, thus to undo the effect of Annexure A-1. Therefore, reiteratedly the outcome of the corrective remedial measures, as become adopted by the litigant who alleges apposite contempt against the present appellants, thus was required to be awaited by the Contempt Bench. Contrarily, the non-awaiting of the apposite outcome (supra), thus by the Contempt Bench but necessarily sparks a conclusion that therebys the Contempt Bench, thus has entertained both a premature, besides a misconstituted contempt petition.

18. Furthermore, the Apex Court in a judgment rendered in case titled as ***State of J and K versus Mohd. Yaqoob Khan and others*** reported in ***(1992) 4 Supreme Court Cases 167*** has held as under:-

> 6. *We do not agree. The scope of a contempt proceeding is very different from that of the pending main case yet to be heard and disposed of (in future). Besides, the respondents in a pending case are at a disadvantage if they are called upon to meet the merits of the claim in a contempt proceeding at the risk of being punished. It is, therefore, not right to suggest that it should be assumed that the initial order of stay got confirmed by the subsequent orders passed in the contempt matter.*
>
> *7. We, therefore, hold that the High Court should have first taken up the stay matter without any threat to the respondents in the writ case of being punished for*

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> *contempt. Only after disposing it of, the other case should have been taken up. It is further significant to note that the respondents before the High Court were raising a serious objection disputing the claim of the writ petitioner. Therefore, an order in the nature of mandatory direction could not have been justified unless the court was in a position to consider the objections and record a finding, prima facie in nature, in favour of the writ petitioner. Besides challenging the claim on merits, the respondent was entitled to raise a plea of non-maintainability of a writ application filed for the purpose of executing a decree. It appears that at an earlier stage the decree in question was actually put in execution when the parties are said to have entered into a compromise. According to the case of the State the entire liability under the decree (read with the compromise) has already been discharged. The dispute, therefore, will be covered by Section 47 of the Civil Procedure Code. It will be a serious question to consider whether in these circumstances the writ petitioner was entitled to maintain his application under Article 226 of the Constitution at all. We do not want to decide any of these controversies between the parties at this stage except holding that the orders passed in the contempt proceeding were not justified, being premature, and must, therefore, be entirely ignored. The High Court should first take up the stay matter in the writ case, and dispose it of by an appropriate order. Only thereafter it shall proceed to consider whether the State and its authorities could be accused of being guilty of having committed contempt of court."*

19. The further entwined therewith issue, which is required to be also decided is whether the Contempt Court, can substitute itself into an Executing Court, and, that too when an appeal against the relevant order/direction is subjudice. In the above regard, the Apex Court in case

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titled as ***R.N.Dey versus Bhagyabati Pramanik and others*** reported in ***(2000) 4 Supreme Court Cases 400***, has held as under:-

> *"7. We may reiterate that weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the Court is to be exercised for maintenance of Court's dignity and majesty of law. Further, an aggrieved party has no right to insist that Court should exercise such jurisdiction as contempt is between a contemnor and the Court. It is true that in the present case, the High Court has kept the matter pending and has ordered that it should be heard along with the First Appeal. But, at the same time, it is to be noticed that under the coercion of contempt proceeding, appellants cannot be directed to pay the compensation amount which they are disputing by asserting that claimants were not the owners of the property in question and that decree was obtained by suppressing the material fact and by fraud. Even presuming that claimants are entitled to recover the amount of compensation as awarded by the trial Court as no stay order is granted by the High Court, at the most they are entitled to recover the same by executing the said award wherein the State can or may contend that the award is nullity. In such a situation, as there was no wilful or deliberate disobedience of the order, the initiation of contempt proceedings was wholly unjustified."*

20. The further entwined therewith issue, which is required to become also adjudicated, is that, whether the Contempt Court can grant substantive relief, despite the same not being covered by the order/judgment, order/judgment whereof evidently is the subject matter of the corrective remedial judicial proceedings. In the above regard, the relevant guidelines become embodied in the judgment rendered by the Apex Court in case titled as ***Sudhir Vasudeva, Chairman and Managing Director, Oil and natural Gas Corporate Limited and***

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others versus M. George Ravishekaran and others reported in ***(2014) 3 Supreme Court Cases 373***. The relevant paragraph of the judgment (supra) becomes extracted hereinafter

> *"19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Decided issues cannot be reopened; nor the plea of equities can be considered. Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the bar, namely, Jhareswar Prasad Paul and Another v. Tarak Nath Ganguly and Others, (2002) 5 SCC 352, V.M.Manohar Prasad v. N. Ratnam Raju and Another, (2004) 13 SCC 610, Bihar Finance Service House Construction Cooperative Society Ltd. v Gautam Goswami and others (2008) 3 SCC 339*

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> *and Union of India and Others v. Subedar Devassy PV 12 (2006) 1 SCC 613."*

21. Now the passing of Annexure A-1, did uncontrovertedly lead the respondent herein, to assail the same through his instituting CWP No. 10687 of 2024 before this Court, whereins, this Court did also pass an interim order dated 9.5.2024 to the extent that the operation of the termination order be not given effect. However, the said order was passed post the making of Annexure A-1 by the competent authority, thus in pursuance to the order passed by this Court Annexure P-1. As such, when the passing of the said order, thus gave a fresh cause of action to the respondent concerned, and, on the effective galvanization of the said cause of action by the respondent, thus the apposite corrective remedial judicial proceedings also become drawn. Moreover, when in the said drawn judicial proceedings, thus for undoing the effect of the makings of Annexure A-1, rather an interim order only to the extent (supra) became passed. Therefore, the relief qua the enforcement of the said passed order was required to be pressed, than contempt petition becoming reared vis-a-vis any purported disobedience becoming caused to the operative part of the order (Annexure P-1), and, with thereins occurring expressions, that "*Consequently, the impugned order dated 8.9.2022 (Annexure P-28) is set aside with liberty to the respondents to pass a fresh order*". Importantly, when the said expression(s) are not equivalent to the otherwise required makings of a clear self speaking enforceable mandamus, but is only a restrictive or a bridled relief which obviously was unenforceable, through the rearing of a contempt petition.

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22. Therefore, reiteratedly the very fact of filing of CWP No. 10687 of 2024 before this Court, wherebys a challenge was laid to Annexure A-1, and, also when during the pendency of the writ petition (supra), an interim order (supra) did become passed, therebys the passing of interim order (supra) was required to well commend itself with the learned Contempt Court of this Court. The effects of supra made self speaking(s), is that, therebys the respondent herein becoming estopped to yet agitate that there was any purported willful disobedience viz-a-viz the operative portion of the order (Annexure P-1), as became passed by this Court. The said operative portion is reiteratedly bridled with a rider, and/or is a consideration order, wherebys for the further reasons to be assigned hereinafter, it did not become a clear emphatic mandamus, thus for the same becoming imperatively obeyed by the present appellants. As such, the maintaining of the apposite contempt petition, and, also the drawing of the contempt action thereons, thus by the learned Contempt Court concerned, is to be construed to be both premature as well as the action taken thereons is deemed to be misconstituted.

23. Be that as it may, the maintainability of the instant appeal against the order (supra) made by the learned Contempt Bench, but is required to be both delved into, besides is required to be adjudicated upon. In the said endeavour, the adoption of recourses (supra) by the present respondent before the writ Court is but of conspicuous importance. The reason for stating so, becomes culled from the principles encapsulated in the verdict recorded by the Apex Court in ***Modern Food Industries (India) Ltd.***'s case (supra), whereins, it

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becomes stated, that in the event of a contempt petition being made before the Contempt Bench, vis-a-vis, any purported willful disobedience being caused to the appositely passed order, thereupons when yet a challenge to the order concerned, thus becomes raised by the pained litigant, through his recoursing the prescribed lawful remedies, as has been extantly done. Resultantly, and, reiteratedly the outcome of the said recoursed remedy was required to be awaited, thus by the Contempt Bench of this Court, than its proceeding to entertain the contempt petition, besides also its proceeding to draw contempt action against the present respondent. The reasons underlined thereins, are that the prima facie approbations of thus recoursings of a premature remedy by the pained litigant, before the learned Contempt Bench, rather would ultimately lead the litigant rather against whom the purportedly disobeyed verdict is drawn, to yet become ill-subjected to the pain of contempt. Importantly when in the face of a decision adversarial to the pained litigant becoming made by the Writ Court concerned, which becomes so accessed, naturally therebys the contemnor concerned, would face the ill-mishap of his yet facing contempt proceedings, and, also his being punished, despite reiteratedly rather subsequently the Court concerned, defeating the claim of the pained litigant vis-a-vis whom any purportedly favourable mandamus becomes passed. Therefore, to obviate the foisting of the said ill-mishap or the ill-casuality vis-a-vis the contemnor concerned, thereupons too, the Contempt Bench of this Court was required to be awaiting the outcome of the civil writ petition (supra), as directed against Annexure A-1, than the Contempt Bench concerned, proceeding to during the pendency of

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the writ petition wherebys a challenge was made to Annexure A-1, rather direct the initiation of contempt action against the contemnors concerned.

24. Be that as it may, this Court is also required to impart a signification to the statutory coinage "jurisdiction to punish for contempt" as occurs in sub-Section (1) of Section 19 of the Act of 1971. Though, the meaning imparted thereto, by the learned counsel for the respondent, is that, unless an order for imposition of punishment is made upon the present respondent, therebys the instant appeal directed against the impugned order, is not maintainable.

25. However, the said argument is required to be rejected, inter alia on the following grounds:-

(a) The meaning to be imparted to the statutory coinage (supra) is not that the contemnor has to await the pronouncement of punishment upon him, but the meaning to be imparted to the said statutory coinage (supra), is that, any order or decision recorded by the learned Single Bench of this Court, while exercising contempt jurisdiction, rather manifesting any proclivities towards ultimately punishing the alleged contemnor for contempt, therebys the maneuverings (supra), as discernible from the making of the apposite order, thus makes the instant appeal to be maintainable before the Appellate Court.

(b) The coinage "to punish for contempt" which exists subsequent to the coinage "any order or decision of the High Court" is an expression, whose effective impact cannot be restricted to the era of awardings of ultimate punishment, as therebys any vitiated order passed

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during the pendency of the contempt proceedings, despite existence of valid extenuating explications (supra), thus forbidding the learned Single Benches from initiating contempt action, besides when for tangible reasons, apposite extensions of time are accordable rather for making compliance(s) with the order alleged to be purportedly disobeyed, rather may yet become also ill-countenanced. Resultantly therebys if yet this Court also overlooks the beneficent mitigating effects of all the possible, thus permissible extenuating pleas, thereupons the said raised possible extenuating pleas, as become earlier arbitrarily rejected by the learned Single Bench of this Court, but would also similarly become arbitrarily rejected even by this Court.

26. Resultantly therebys the learned Single Bench of this Court appears to rather than, as expostulated in verdicts (supra), that contempt jurisdiction is to be sparingly exercised or becoming potentialized only for upholding the majesty, and, dignity of the obeyable directions or the orders passed by the Courts of law, thus through initiating contempt action against the persons concerned, but contrarily rather has whimsically and arbitrarily miskewed the contempt jurisdiction.

27. Moreover therebys, in the wake of the supra, neither the present respondent was required to be accessing the learned Contempt Bench concerned, nor the learned Contempt Bench concerned, was required to be entertaining the contempt petition. Contrarily, when for reasons (supra), the remedial judicial proceedings rather for undoing the ill-effect(s) of Annexure A-1, became recoursed by the present respondent, thereupon both (supra) were required to be awaiting the outcome of the relevant lis.

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28. Moreover, since only limited relief to the extent (supra) became granted to the present respondent, inasmuch as, only the operation of impugned order (Annexure A-1) becoming stayed, but no relief for reinstating the present respondent in service became granted.

29. Conspicuously when thus, only a restrictive relief became granted to the present respondent, on the interim application to the extent, that operation of Annexure A-1 became stayed, whereas, no direction was passed for reinstating the present respondent in service. Therefore, the non-passing of an order for reinstatement of the present respondent in service, thus in the writ petition (supra) by the writ Court, but was also required to be borne in mind by the learned Contempt Bench, as the same, evidently comprised an extenuating reason, rather for therebys the present appellants, thus not making compliance with the order, thus bridled with limitations (supra).

30. The non-passing of an order by the Writ Court for reinstating the present respondent in service also was of paramount importance, as it appears that therebys the Court seized with CWP No. 10687 of 2024, was not inclined to pass an order for the reinstatement of the present respondent in service. If so, if the effective import thereof, is that, if the Writ Court accessed by the present respondent pursuant to the making of Annexure A-1, thus was not inclined to, on any ground order for reinstatement in service of the present respondent. Consequently, the further concomitant effect thereof, is that, despite the order (supra) becoming not passed, yet the Contempt Bench maneuvering itself to ensure the makings of compliance vis-a-vis Annexure P-1. Thereupon besides since Annexure P-1 is even otherwise

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only a restricted or a bridled consideration order, wherebys it does not confer any indefeasible right, upon the present respondent to claim that, with the respondent pursuant, to the making of Annexure P-1, wherebys the order terminating the service of the respondent became quashed and set aside, thus making of Annexure A-1, that yet there was any purported disobedience caused to the extent that rather in the interregnum inter se the making of Annexure P-1 and the making of Annexure A-1 qua the appellants becoming preemptorily enjoined to reinstate the present respondent in service. The effective reason for so concluding arises from the fact, that the present respondent has remained unmindful of the fact, that the order (Annexure P-1) though quashed the termination of his services by the appellants, but yet the said granted relief to the respondent was a truncated or a trammeled relief, inasmuch as, there was yet preservation of a liberty vis-a-vis the present appellants to subsequently pass a fresh speaking decision in respect of the apposite controversy. Moreover, since the pursuant thereto, thus order adversarial to the present respondent became passed, however, when the said order has been assailed, and, only a limited relief (supra) has been granted by the Writ Cout concerned. Resultantly, it appears that in the garb of the contempt petition, the Contempt Court has proceeded to supplant itself as the Writ Court, which has been accessed by the present respondent. In addition therebys it has proceeded to grant relief to the present respondent, which was declined to him by the Writ Court. As such, the said supplantings or assumption(s) of jurisdiction by the Contempt Bench concerned, over a subjudice subject, before the Writ Court, thus appears to be a blatant

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impropriety, and, also becomes ridden with a vice of arbitrariness. The said maneuverings are skewed maneuverings, as therebys the learned Contempt Bench has accepted the ill-founded premise by the present respondent, that pursuant to the quashing of the order terminating his services, thereupon he became forthwith entitled to be reinstated in service by the appellants.

31. The learned counsel for the respondent, has also vociferously contended, that since an imperative obligation became cast upon the present appellants to forthwith, post the making of the decision (supra) to reinstate the present respondent in service, and, to also pay him the salary attaching to his post. However, prima facie since the above was not done, therebys it is argued, that the said categorical mandamus was clearly violated. However, since no effective, clear or express obeyable mandamus to the extent (supra) became passed by this Court, rather when the relief granted to the respondent herein was a bridled and restricted relief, to the extent that an apposite consideration order becoming directed to become so passed.

32. Consequently, when a deep reading of declaration(s) of law made in the verdict (supra) reveals, that for a valid contempt action becoming drawn against the errant litigant concerned, thus imperatively requires, that a clear self speaking mandamus occurs in the operative part of the decision concerned, whereas, when in the instant case there is no clear and express obeyable mandate passed upon the respondent. Resultantly, the effect of the lack of passing of the said clear mandamus, upon the respondent, when becomes combined with the effect of the reasons' (supra), is that, the drawing of the instant contempt petition

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was premature.

33. The reason for making the above inference becomes sparked from the expostulations of law, as made in ***Sudhir Vasudeva***'s case (supra), whereins occur explicit underlinings, that only such directions which are explicit in a judgment or order or are plainly self evident, thereupon on their purported willful disobedience, thus may empower the drawing(s) of valid contempt action against the errant litigant concerned. Therefore, reiteratedly when a reading of the verdict (supra) makes it plainly clear, that it is self speaking, only to the effective impact, that it becomes abridged with the restriction(s), qua post the quashing of the termination order dated 8.9.2022, a fresh order being permitted to be passed, besides obviously with a liberty to the present appellants to either sustain the termination order or to revisit it. Moreover, when after consideration of the entire material on record, the present appellants deemed it fit, and, proper to maintain the apposite order. Moreover, when after the making of Annexure A-1, the corrective remedial judicial proceedings become drawn at the instance of the present respondents, besides when the said drawn corrective judicial proceedings are subjudice before this Court. Therefore, when obviously neither any clear self speaking obeyable order becomes made, nor when any clear mandamus requiring obedience thereto becomes passed against the present appellants, nor when it was required to be peremptorily obeyed, besides when there is also no purported willful disobedience to the said passed restricted order, thereupons no contempt action was drawable. Reiteratedly, the outcome of the subjudice corrective judicial proceedings, as undertaken by the present respondent

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was required to be awaited.

34. In aftermath, the availment of the said remedy by the present respondent was the only befitting remedy. Additionally, when only the restricted interim relief (supra) becoming granted to the present respondent in the writ petition concerned, in pursuance whereto, an order adversarial to him (Annexure A-1) became passed by the present appellants. Moreover, reiteratedly when he has assailed the passing of the said order, and, also has been granted only a limited interim relief (supra), thereupon, in case the present respondent deemed it befitting, that he was to be granted the relief of even his becoming reinstated in service, thereupon the espousal to the said extent rather was to be made only through a motion being made before the Writ Court, than before the Contempt Court, nor therebys the Contempt Court was required to be initiating any contempt action against the present appellants.

35. In summa, the remedy of contempt was an ill-recoursed remedy, as therebys the learned Contempt Bench concerned, has supplanted, beside substituted itself into the Writ Court, whereas, the Writ Court alone was the sole repository of an able jurisdiction, to decide the tenacity of the claim raised by the present respondent, with respect to the validity of the making of Annexure A-1.

36. The judgment relied upon by the present respondent was not squarely applicable to the instant case, as it appertains to the drawing of contempt action upon wilfull violation being made vis-a-vis only clear categorical, and, self speaking mandamus' becoming passed. However, when in the instant case a bridled consideration order became passed, therebys the passing of the said bridled order(s), does not make

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the same to be a clear self speaking obeyable mandamus, thus becoming passed upon the present appellants, nor as such any contempt action was drawable against the present appellants.

37. Ultimately, the preponderant reason, for this Court concluding that the above submission addressed before this Court by the learned counsel for the respondent, as appertains to the maintainability of the present appeal, is required to be rejected, whereas, this Court declaring that the instant appeal becomes maintainable, thus becomes hinged upon the hereinafter principles, relating to the maintainability of appeals by the Appellate Court concerned, principles whereof become engrafted in paragraph No.11 of the verdict

made by Hon'ble Apex Court, in case titled as "***Midnapore Peoples' Coop. Bank Ltd. And others V. Chunilal Nanda and others***" reported in ***(2006) 5 SCC 399***, paragraph whereof becomes extracted hereinafter.

> "*11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :*
>
> *I. An appeal under section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.*
>
> *II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.*
>
> *III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto.*

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In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

The first point is answered accordingly."

38. Exceptions to the arguments raised (supra) by the learned counsel for the respondent against the maintainability of the present appeal became grooved in principle No.4, whereins, it is expounded that any direction or decision which is incidental to or is inextricably connected with the order punishing for contempt, therebys, the said does make the contempt appeal maintainable. Conspicuously also when for all the reasons (supra), the learned Contempt Bench concerned, through the making of the impugned order, has evidently proclived towards punishing the contemnors for contempt, therebys also the instant appeal is maintainable.

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39. Lastly, the principles of law which are required to hereafter become considered to be applied by the learned Contempt Court, are the ones which are stated in the instant case and also are the ones, as become underlined in the verdict rendered by this Court in ***CACP No. 20 of 2024,*** titled as ***T.V.S.N. Prasad and others versus Resham Singh***.

Final order

40. Hence, there is merit in the instant appeal and the same is allowed, and the impugned order of 19.09.2024, as becomes drawn by learned Single Bench is quashed, and, set aside, and, the present appellants are discharged accordingly.

41. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

November 12th, 2024
Gurpreet

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

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