



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

% ***Date of decision: September 17, 2025***

+ **CONT.CAS(C) 1414/2025, CM APPL. 59131/2025, CM APPL. 59132/2025**

DR SUNIL KUMAR

.....Petitioner

Through: Mr. Chinmoy Pradip Sharma, Sr. Adv. with Ms. Usha Pandey, Mr. Vedant Kulshrestha, Mr. Irfan Hasieb, Mr. Luv Mahajan, Mr. Vikay Deora and Mr. Aditya Agarwal, Advs.

Versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Pratima N. Lakra, CGSC with Mr. Chandan Prajapati, Mr. Priyam Sharma and Mr. Shivansh Bansal, Advs. with Mr. Gaurab Porwal, Deputy Comtt. SSB

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (Oral)

1. The petitioner, *vide* the present contempt petition under *Article 215* of the Constitution of India read with *Section 2(b)* read with *Section 12* of the Contempt of Courts Act, 1971 (*the Contempt Act*), seeks the following reliefs:

“(i) This Hon’ble Court may kindly take the cognizance of the wilful and deliberate disobedience of this Hon’ble Court’s orders dated 30.07.2021, 13.08.2021, 08.12.2021, 08.08.2025 & 26.08.2025 passed in contempt case no.286/2020 wherein the contemnors/respondents deliberately and intentionally breached their own undertaking and directions of this Hon’ble Court by issuing the office orders dated 05.08.2025, 06.08.2025, 08.08.2025 and 26.08.2025 against the directions of this Hon’ble Court. For this act of deliberate and intentional



contempt, punish the respondents accordingly with heavy cost; and

(ii)The contemptuous relieving order dated 08.08.2025 and joining order dated 26.08.2025 be set aside; and

(iii)No coercive action be taken against the petitioner by the contemnors/respondents; and/or

(iv)Pass any other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. The facts leading to the filing of the present contempt petition are such that the petitioner joined the Special Service Bureau (**SSB**) in the year 1998 as a Medical Officer. At that time, the Director General (Security) Secretarial Service consisted of *four* components namely Special Service Bureau ("**erstwhile SSB**"), Aviation Research Centre (**ARC**), Special Frontier Force (**SFF**) and Chief Inspectorate of Armaments (**CIOA**) and were under the control of the Cabinet Secretariat however, pursuant to certain policy decisions, the aforesaid components were trifurcated into three units.

3. Thereafter in the year 2004, the administrative control of the erstwhile SSB was transferred to the Ministry of Home Affairs (**MHA**) and the erstwhile SSB was converted into Sashastra Seema Bal ("**SSB**") now treated as Central Armed Police Force (**CAPF**) by the Government of India. *Vide* order dated 18.02.2005 optioned were called from all serving officers and personnel as to whether they were willing to opt for combatization, to which the petitioner expressed his unwillingness.

4. Aggrieved with his posting on a combatized posts and at combatized setups, the petitioner filed *O.A. No.1754/2015*, wherein the Central Administrative Tribunal Principle Bench, New Delhi on



23.07.2015 directed the respondents to consider extending the benefits to the petitioner as per the judgment passed by the Hon'ble High Court of Calcutta in *W.P.C.P 36/2011* titled ***Ranjit Kumar Phukan and Ors. Vs. Union of India and Ors.*** and disposed of the same.

5. Aggrieved thereby, the respondents filed a writ petition being *W.P.(C) No.940/2016* which came to be dismissed by the learned Division Bench of this Court *vide* order dated 15.10.2018.

6. Aggrieved by the non-implementation of the order dated 15.10.2018 passed by the learned Division Bench of this Court, the petitioner filed a contempt petition being *Cont. Case(C) No.384/2019* against the very same respondents herein. During pendency thereof, the respondents *vide* FAX/WAN message dated 11.09.2019, sought from the civil officers like the petitioner their willingness to get transferred to the Investigation Bureau (I.B), to which the petitioner showed his willingness to opt for the said transfer *vide* letter dated 12.09.2019. Thereafter, the respondents issued several office order(s) dated 30.11.2019, 23.12.2019, 23.03.2020 and 08.06.2020 of transferring him to different combatised posts.

7. While the *Cont. Case(C) No.384/2019* was still pending, the petitioner also filed another contempt petition being *Cont. Case(C) No.286/2020* against the very same respondents herein seeking setting aside of the order dated 23.03.2020 wherein the present impugned orders dated 30.07.2021, 13.08.2021, 08.12.2021, 08.08.2025 and 26.08.2025 have been passed, which is also listed before this Court today.

8. Thus, in light of passing of the aforesaid orders, the petitioner has filed the present contempt petition contending wilful and deliberate disobedience by the contemnors/ respondents of the order dated



30.07.2021, 13.08.2021, 08.12.2021, 08.08.2025 and 26.08.2025 passed by this Court in *CONT.CAS(C) 286/2020*.

9. *De hors* the averments made in the present contempt petition, learned senior counsel for the petitioner has made elaborate submissions *qua* establishing that there has been wilful and deliberate disobedience on behalf of the contemnors/ respondents of each of the aforesaid orders.

10. *Qua* the first order dated 30.07.2021 and second order dated 13.08.2021, it is the case of the learned senior counsel for the petitioner that the undertaking given on behalf of the respondents recorded at *paragraph 5* of the order dated 30.07.2021 and the direction contained in *paragraph 4* of the order dated 13.08.2021 for passing appropriate directions to enable the petitioner with the relief granted to him by the learned Division Bench of this Court and filing an affidavit of compliance within a period of six weeks, although, have been complied with by the respondents, however, the said compliances are not in true spirit of what the undertaking and direction(s) actually meant.

11. Though learned senior counsel for the petitioner has repeatedly stated that the undertaking given on 30.07.2021 and the direction(s) given by the Court on 13.08.2021 have been complied with but not in true spirit, however, this Court is of the considered view that despite the factum that a timeline of six weeks had been fixed by this Court on 13.08.2021 in presence of the learned counsel for the petitioner.

12. However, since it is an admitted position that the petitioner never took any steps for initiating proceedings within the prescribed statutory period of one year under *Section 20* of the Contempt Act *qua* the order dated 30.07.2021 and the order dated 13.08.2021, the present petition *qua*



them being beyond time, is not maintainable.

13. Similarly, the same is the position *qua* the order dated 08.12.2021 whereby the respondents therein were directed to file a compliance affidavit of transferring the petitioner to any other department in view of the order dated 15.10.2018 passed by the learned Division Bench of this Court. Even though the learned senior counsel contends that the respondents complied with the said direction, however, since it was only as an interim measure, there was, in fact, no compliance and wilful disobedience thereof on the part of the respondents.

14. Once again, admittedly the petitioner never took any steps for initiating proceedings within the prescribed statutory period of one year under *Section 20* of the Contempt of Courts Act, 1971 *qua* the order dated 08.12.2021. In view thereof, the present petition *qua* the order dated 08.12.2021 being beyond limitation, is also not maintainable.

15. Be that as it may, this Court cannot undermine the legislative intent in fixing the said prescribed statutory period of limitation of one year in the Contempt Act by the legislature. The same, being mandatory, has a significant relevance. In fact, it is a settled position of law that the Courts ought not to entertain contempt proceedings initiated after expiry of the period of limitation as prescribed under *Section 20* of the Contempt Act however, to supplant the aforesaid view, it is felt appropriate to refer to the decision of the Hon'ble Supreme Court in *S. Tirupathi Rao v. M. Lingamaiah*¹ wherein it has been held as under:

“53. *Reverting to the point of limitation, even in case of a petition disclosing facts constituting contempt, which is civil in*

¹ 2024 SCC OnLine SC 1764



nature, the petitioner cannot choose a time convenient to him to approach the Court. **The statute refers to a specific time limit of one year from the date of alleged contempt for proceedings to be initiated; meaning thereby, as laid down in Pallav Sheth (supra), that the action should be brought within a year, and not beyond, irrespective of when the proceedings to punish for contempt are actually initiated by the high court.**

54. An action for contempt - though instituted through a petition or an application - is essentially in the nature of original proceedings, as held by this Court in High Court of Judicature at Allahabad v. Raj Kishore Yadav⁴³; a fortiori, a prayer for condonation of delay in presenting the petition/application alleging contempt would not be maintainable. **The express negative phraseology used in section 20 of the Act, as a legislative injunction, places a fetter on the court's power to initiate proceedings for contempt unless the petition/application is presented within the time-frame stipulated therein.** However, since section 20 also uses the expression "date on which the contempt is alleged to be committed" as the starting point of the period of one year to be counted for reckoning whether the petition/application has been presented within the stipulated period, the high courts ought to be wary of crafty and skilful drafting of petitions/applications to overcome the delay in presentation thereof.

55. The Act, which is a special law on the subject of contempt, does not expressly or by necessary implication exclude the applicability of sections 4 to 24 of the 1963 Act. This Court, in State of West Bengal v. Kartick Chandra Das⁴⁴ has held that in terms of section 29(2) of the 1963 Act, provisions contained in section 5 of the 1963 Act can be called in aid by a party who seeks condonation of delay in presentation of an appeal under section 19(1) of the Act. Similarly, in exceptional cases, provisions like sections 12, 14, 17, 22, etc. of the 1963 Act could be invoked to seek exemption from the law of limitation, which is distinct from condonation of delay. In an appropriate case, it would be open to the party who has not petitioned the court within the period of one year, as stipulated in section 20 of the Act, to seek exemption from the law of limitation in line with the principle flowing from Order VII Rule 6, CPC⁴⁵, by showing the ground upon which such exemption is claimed. **We have no hesitation to hold that in a case where a civil contempt is alleged by a party by referring to a "continuing wrong/breach/offence" and such allegation prima facie satisfies the court, the action for contempt is not liable to**



be nipped in the bud merely on the ground of it being presented beyond the period of one year as in section 20 of the Act. Applicability of the principle underlying Order VII Rule 6, CPC for granting exemption would only be just and proper having regard to the object and purpose for which the jurisdiction to punish for contempt is exercised by the courts if, of course, the court is satisfied that benefit of such an exemption ought to be extended in a given case. At the same time, it must be remembered that the court cannot grant exemption from limitation on equitable consideration or on the ground of hardship. Inspiration in this regard may be drawn from the decision of the Privy Council in *Maqbul Ahmad v. Onkar Pratap Narain Singh*⁴⁶. However, as observed earlier, contempt proceedings being in the nature of original proceedings, akin to a suit, application of section 5 of the 1963 Act to seek condonation of delay is excluded.

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.”

[Emphasis supplied]

16. Since each of the said orders dated 30.07.2021, 13.08.2021 and 08.12.2021 were passed in different context and at a different point of time, as the factual circumstances were then, they all are distinct and had a different cause of action(s) *qua* them, which arose separately. It was not and could not be a case of recurring cause of action therein. In any event, the petitioner cannot be allowed to challenge them in one breadth *vide* a common petition like the present one, merely by combining them with the subsequent orders passed by this Court. Even otherwise, each of the said orders were passed in different context altogether, which cannot be combined by the petitioner in one petition like the present. The challenge thereto by this common petition is not maintainable under the garb of combining them with the subsequent orders dated 08.08.2025 and 26.08.2025 *qua* which the prescribed statutory period of one year under *Section 20* of the Contempt Act is available with the petitioner.

17. Even otherwise, for maintaining an action for civil contempt like the present one, the petitioner is required to satisfy the Court that there exists a “*wilful disobedience*” in terms of *Section 2(b)* of the Contempt Act. The same becomes of utmost relevance in view of the fact that every violation of a judgment or order or decree or direction or writ or other



process of a court or an undertaking given to a court by the respondent will not *ipso facto* amount to contempt. It is for the party initiating contempt proceedings to establish that the violation/ disobedience of a judgment or order or decree or direction or writ or other process of a court or an undertaking given to a court by the alleged contemnor, if any, was/ is conscious/ deliberate/ wilful, meaning thereby, there has to be something purposeful and clear intention to flout the same.

18. Although, to buttress his submissions that the respondents were guilty of committing contempt, learned senior counsel for the petitioner has drawn attention of this Court to the 'Affidavit of Compliance' filed on 05.01.2022 by the respondents in response to the directions issued by the Court *vide* order dated 13.08.2021 and 08.12.2021 in *CONT.CAS(C)* 286/2020. In the opinion of this Court, this does not come to the aid of the petitioner, since in view of the averments made therein, there is no case of any contempt made out against the respondents. The relevant extracts of the said 'Affidavit of Compliance' are reproduced herein as under:

*"4. Pursuant thereto, **SSB on 08.12.2021 forwarded proposal for transfer of Non-Combatized Medical Officer(s) outside SSB to Ministry of Home Affairs.** It is discovered that MHA does not have any civil department, wherein the Petitioner can be accommodated. Thus, the respondent No.1 is left with no alternative but to transfer the Petitioner to some other organisation outside MHA. The letter dated 08.12.2021 has already been placed on record vide affidavit dated 16.12.2021.*

*5. However, for transferring the Petitioner to any other such organisation, MHA needs to take approval and consent from the concerned receiving Ministry / Department, which would have a suitable slot to absorb the Petitioner in terms of the judgment dated 15.10.2018. With the aforesaid objective in mind, **the MHA took up the case with the Ministry of Health and Family Welfare for absorbing the Petitioner in CHS vide its letter dated 16.12.2021. The letter dated 16.12.2021 has already been***



placed on record along with affidavit dated 16.12.2021.

6. Thereafter, SSB also vide its letter dated 23.12.2021 requested the Ministry of Health and Family Welfare ("MoH&FW") to accommodate the Petitioner in CHS cadre in equivalent rank in Pay Matrix Level 13A.

A copy of the MHA letter dated 23.12.2021 issued to the Ministry of Health and Family Welfare is annexed hereto and marked as Annexure A-1.

7. In response to the above communications, MoH&FW vide its office memorandum No. A. 45011/14/2021-CHS-II/V (FTS No 8145195) dated 29.12.2021, informed MHA that the MoH&FW is unable to absorb the Petitioner in CHS since (a) there is no such provision regarding absorption of ex-cadre doctors in CHS and (b) Pay Level 13A is not applicable to CHS doctors. A copy of the Office Memorandum dated 29.12.2021 is annexed hereto and marked as Annexure A-2. From the above, it is clear that the best endeavour on the part of the MHA to place the Petitioner, outside SSB, has not succeeded for the time being. However, the MHA will engage with other Ministries and Departments to explore if the Petitioner can be absorbed in any suitable service or slot, other than the SSB. ...
..."

[Emphasis supplied]

19. There was a "wilful disobedience" in terms of Section 2(b) of the Contempt Act by anyone like the respondents, is an intrinsic, basic and fundamental requirement of any proceedings like the present one. In the present case, the aforesaid 'Affidavit of Compliance' filed by the respondent therein reflects that the respondents had in fact acted as per the direction(s) and/ or undertaking(s) therein. Thus, this is not a case of there being any "wilful disobedience" by the respondents. Therefore, for the purposes of proceeding with the present petition, the said well-reasoned 'Affidavit of Compliance' filed by the respondents is, in fact, sufficient for this Court to conclude that there was no non-compliance and/ or wilful disobedience by the respondents of the orders dated 13.08.2021 and



08.12.2021 passed by this Court. In fact, contrary thereto, it reflects that there was an obedient compliance by the respondents of the earlier orders. Be that as it may, *admittedly*, it is not the case of the learned senior counsel for the petitioner that there was any non-action and/ or non-compliance of the said orders on the part of the respondents, since the only challenge is to the manner of steps taken by the respondents.

20. The sequitur to the above is that in order to establish a case of '*continuing wrong/ breach/ cause of action*' in a contempt petition, the petitioner is required to establish the said proposition from his pleadings. In the event, if the party fails to satisfy the court, the petition is liable to be rejected at the outset. Moreover, the Court has to be vigilant and ought not entertain stale claims camouflaged under the '*continuing wrong/ breach/ cause of action*'.

21. Regarding the subsequent orders dated 08.08.2025 and 26.08.2025 of which the petitioner has alleged contempt by the respondents in this very same petition, the petitioner cannot be allowed to conjointly file a common petition challenging them along with the earlier orders, which are indeed barred by limitation. Even otherwise, as evident from the said orders dated 08.08.2025 and 26.08.2025, they were passed in a different context altogether, which have no correlation with any of the earlier orders sought to be contended by the petitioner. For the sake of clarity, as per *paragraphs 5, 6 and 8* of the order dated 08.08.2025, the direction of this Court was to not give effect to the orders dated 05.08.2025 and 06.08.2025 as also any subsequent order relieving the petitioner that may be passed. Similarly, as per order dated 26.08.2025, only the interim order granted on 08.08.2025 was extended till the next date of hearing. In any



event, the petitioner has been unable to show any act of contempt by the respondents against any of the said orders.

22. Although it is the case of the learned senior counsel for the petitioner that since the present is a recurring cause of action, wherein the respondents have been guilty of non-compliance and wilful disobedience of the order dated 15.10.2018, passed by the Division Bench of this Court in *W.P.(C) No.940/2016*, however, in view of the aforesaid findings *qua* maintainability of a contempt petition like the present one, the present petition *qua* the said orders dated 05.08.2025 and 06.08.2025 is also, *per se*, not maintainable.

23. Furthermore, it is also relevant to mention that there are no pleadings showing/ reflecting that there was/ is any “*wilful disobedience*” in terms of *Section 2(b)* of the Contempt Act by the respondents in the present petition. Also, based on the lengthy arguments addressed by learned senior counsel for the petitioner there was/ is nothing in the nature of there being any ‘*continuing wrong/ breach/ cause of action*’.

24. Therefore, in view of the aforesaid facts, circumstances and settled position of law, since no case of contempt is made out by the petitioner, and that too against multiple orders, which include stale claims, this Court has no reason for issuing notice thereon.

25. As such, the present petition along with the pending applications being devoid of merits is dismissed *in limine*.

SAURABH BANERJEE, J.

SEPTEMBER 17, 2025/Ab