of the present case cannot hold the respondent liable deliberatly. There would be gross injustice to the respondent. I find no reasons to set aside the reasonings of the learned Additional Sessions Judge, Ludhiana.

In the peculiar facts of the present case, there was full justification for modifying the order of the trial Court and allowing the maintenance from the date of the application.

Consequently the revision petition fails and is dismissed.

J.S.T.

Before Hon'ble G. S. Singhvi & N. K. Sodhi, JJ.

COURT ON ITS OWN MOTION.

versus

SHRI N. S. KANWAR, EXECUTIVE ENGINEER, PROVINCIAL DIVISION, P.W.D. (B&R), NARAINGARH, DISTRICT YAMUNANAGAR,—*Respondent.*

Civil Original Contempt Petition No. 721 of 1994

The 18th August, 1994.

Contempt of Courts Act, 1971—*Section* 2(b)—*Wilful disobedience—Meaning thereof—Respondent fully aware of the Court order—Not taking any step to comply wih those orders—Such respondent commits Contempt of Court.*

Held, that the term 'wilful disobedience' used in Section 2(b) of the Contempt of Courts Act, 1971 cannot be construed to mean that an act must in all cases be designed and deliberate to be held as Civil Contempt. If a party who is fully in know of the order of the Court or is conscious and aware of the consequences and implications of the Court's order, ignores it or acts in violation of the Court's order, it must be held that disobedience is wilful. It is never practicable to prove the actual intention behind the act or omission. A Court can approach the question only objectively and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act.

(Para 24)

Further held, that the respondent did not take any step to carry out the Court's order for a period of over one year and six months

despite full knowledge of the direction given by the High Court. Complete silence on the part of the respondent and his total failure to take even a single step for compliance of the Court's order is sufficiently indicative of the bent of mind of the respondent i.e. to ignore the Court's order. The respondent was totally remiss in his duty to comply with the Court's order. The silence on the part of the respondent for a period of over one year and six months and his failure to comply with the Court's order cannot but be treated as wilful disobedience of the Court's order.

(Para 9)

D. R. Sharma, Advocate, *for the Petitioner.*

Suresh Monga, DAG, Haryana, R. K. Malik, Advocate, for N. S. Kanwar, *for the Respondent.*

ORDER

JUDGMENT

G. S. Singhvi, J.

This case is illustrative of the plight of low paid employees who are made to litigate more than once for enforcing their basic and bare rights in relation to their conditions of service. This is also illustrative of the growing malady in the administration and the attitute of defiance of the Court orders by the administrative authorities who are unmindful of the fact that their action and omission of not complying the Court orders or violating the same leads to the denigration of entire constitutional system.

Thakur Singh and others filed writ petition No. 1093 of 1990 with a prayer for issue of a direction to the respondents to regularise their service. This petition was disposed of by the High Court on December 3, 1992 with a direction to the respondents to consider/reconsider the claim of the petitioner for regularisation in terms of the judgment of the Supreme Court in *State of Haryana* v. *Piara Singh* (1). The court observed that the petitioners be granted relief of regularisation only if they fall within the purview of the judgment or any other subsequent instructions issued by the State Government in this behalf.

Although order dated 3rd December, 1992 was not carried out by the respondents, instead of filing a contempt petition, Thakur Singh and Munshi, two of the petitioners in Civil Writ Petition No. 1093 of 1990, filed second petition which came to be registered as C.W.P. No. 263 of 1994. In this petition, the petitioners averred that they had been appointed as Beldars in Public Works

(1) 1992 (4) S.C.C. 118.

Department of Government of Haryana in the year 1977 and that although they are continuously working since 1977, they have been paid as daily wagers and their services have not been regularised. The petitioners further stated that the Chief Secretary to Government of Haryana issued instructions dated 27th May, 1993 for regularisation of the service of work charged/casual/daily wages employees who had completed five years service as on 31st March, 1993 and though the High Court had passed order dated 3rd December, 1992 for consideration of their case in the light of judgment of the Supreme Court in Piara Singh's case, no action has been taken by the respondents for regularisation of their service. In reply, the respondents did not controvert the statement of the petitioners that they are in employment since 1977. However, they pleaded that petitioners do not fulfil the conditions specified in the judgment of the Supreme Court and the policy decision of Government of Haryana and for this reason they are not entitled to regularisation.

When the writ petition was listed before the Court on 20th July, 1994, the case was adjourned for 22nd July, 1994 on the request made by learned Deputy Advocate General, Haryana. On 22nd July, 1994, learned DAG, Haryana made a statement that the order passed by the High Court on December 3, 1992 in C.W.P. No. 1093 of 1990 has been complied with by the Executive Engineer, Provincial Division, P.W.D. (B&R) Naraingarh, District Yamunanagar by passing order dated 21st July, 1994. He made a statement that the claim of the petitioners for regularisation in service has been rejected. At that stage, the court enquired from him as to why steps were not taken for such a long time for compliance of the court's order dated December 3, 1992. The learned Deputy Advocate General expressed his inability to offer any justification on this count. After taking note of the fact that no justification has been offered by the respondents in general and particularly the respondent-Executive Engineer for non-compliance of the Court's order for the last 1½ years, which compelled the petitioners to institute a second petition, the court *suo-moto* initiated contempt proceedings against the non-petitioners.

In response to the notice issued by the Court, respondent-N. S. Kanwar has filed an affidavit stating therein that although Haryana Government issued instructions on 27th May, 1993 for

regularisation of daily wage employees who had completed 5 years service on 31st March, 1993 and who were in service on that date. That policy decision of the Government did not specify as to how the breaks in the service of the daily wages employees were to be treated. The Engineer-in-Chief, P.W.D. (B&R), Haryana later on clarified that in case of daily wage employees, service rendered for 240 days in a year be taken into consideration. Thereafter another set of instructions was issued on 18th March, 1994 whereby it was clarified that the break in service of daily wage employee should not be more than 30 days at a time and he should have worked for 240 days in a year. Some more directions were issued about the applicability of the policy decision of the Government and the same were circulated by the Government of Haryana,—*vide* circular dated 31st May, 1994. The respondent asserted that since the Haryana Government clarified the position,—*vide* its circular dated 31st May, 1994, claim of the petitioners for regularisation of service under the policy decision annexure R/1 could be considered only after 31st May, 1994. He has stated that the claim of the petitioners Thakur Singh and Munshi Ram was not covered under the policy decision and, therefore, the same was rejected on 21st July, 1994. Respondent has further pleaded that Thakur Singh had more than 30 days break in November, 1988 and December, 1988 and he had not completed 240 days of service in the year 1988-89. In the case of Munshi Ram there was breaks of 30 days during 1988 and he had not completed 240 days of service during the years 1988-89 and 1992-93. He has further pleaded that judgment of the Supreme Court was never brought to his notice by the petitioners. This decision was brought to his notice by the Advocate and that decision reveals that as per policy decision of the Government of Haryana circulated,—*vide* letter dated 6th April, 1990, the petitioners who had completed 10 years service as daily wage employees were entitled to be regularised. After having acquired knowledge of the judgment, orders annexures R/7 and R/8 have been issued for regularisation of the service of the petitioners. The respondent has made a statement that although the Government of Haryana had placed its policy decision dated 6th April, 1990 before the Hon'ble Supreme Court the same was never circulated in any department of the Government of Haryana and, therefore, the deponent could not consider the cases of the petitioners for regularisation of service in accordance with that policy decision. In the end, the respondent has expressed that he has highest regard for the judiciary and he has tendered unqualified apology.

During the course of hearing on the contempt petition, two more orders have been filed before the Court on 8th August, 1994. By

these orders services of the petitioners Thakur Singh and Munshi Ram have been regularised with effect from 1st October, 1988 and it has been stated that they will be entitled to all consequential benefits. Shri Malik, learned counsel for the respondent made an oral statement that within one month from today, all monetary benefits will be paid to the petitioners.

Argument of the learned counsel appearing for the respondent is that although the High Court had given direction on 3rd December, 1992 for consideration of the cases of the petitioners for regularisation of their service in accordance with the judgment of the Supreme Court in *State of Haryana* v. *Piara Singh* (Supra) and instructions issued by the Government of Haryana, the respondent could not take any step for compliance of the orders of the High Court for want of clear instructions from the Government of Haryana. Shri Malik submitted that the Government of Haryana did not circulate the policy decision contained in its letter dated 6th April, 1990 regarding regularisation of those daily wage employees who had completed 10 years of service. He argued that on account of lack of knowledge about the circular dated 6th April, 1990, the respondent could not issue order for regularisation of service of the petitioners. Shri Malik further argued that since the Government of Haryana had not issued clear instructions on the subject of regularisation of daily wage employees, clarifications had been sought for by various departmental authorities and only in May, 1994 the Government issued clarification regarding the implementation of its policy decision for regularisation of the service of daily wage employees. In this situation, the respondent cannot be held responsible for alleged disobedience of the Court's order, argued Shri Malik. He pleaded that the respondent depended upon the instructions issued by the Government of Haryana and till he got the clarification from the Government, he was not in a position to give effect to the court's order particularly when he had no knowledge of the Government's circular dated 6th April, 1990.

Order of the court dated 3rd December, 1992 which was passed by the High Court in C.W.P. 1093 of 1990, reads as under :—

> "The petition with regard to petitioners No. 1 to 3 disposed of with the direction to the respondents to consider/reconsider their claim for regularisation in terms of the judgment of the supreme court in *State of Haryana* v. *Piara Singh*

1992 (5) S.F.J. 1. The said petitioners be granted this relief only if it is found that their case falls within the purview of the judgment or any other subsequent instructions issued by the State Government in this behalf."

A close scrutiny of the order dated 3rd December, 1992 clearly shows that the High Court was conscious of the direction issued by the Supreme Court in *State of Haryana* v. *Piara Singh* (Supra) regarding regularisation of the service of daily wage employees. It was also conscious of the fact that the Government of Haryana may have issued some other instructions after the judgment of the Supreme Court in Piara Singh's case and precisely for this reason this court made it clear that the petitioners be given relief only in case they are found to be entitled to regularisation in accordance with the judgment and subsequent instructions issued by the State Government. However, the court had neither intended nor could it be presumed that the court had an inkling of instructions to be issued in future i.e. after December 3, 1992. The Court's order unequivocally referred to the instructions which may have been issued by the Government of Haryana after the judgment of the Supreme Court in Piara Singh's case.

It has not been denied before us that the respondent-N. S. Kanwar had the knowledge of the order passed by the Court. It is, therefore, reasonable to hold that he was fully aware of the fact that the cases of the petitioners are required to be considered for regularisation of service in accordance with the judgment of the Supreme Court in Piara Singh's case and instructions which may have been issued by the State Government thereafter. The circular of the Government dated 27th May, 1993 was not in existence on the date of passing of the order dated 3rd December, 1992 in C.W.P. 1093 of 1990. Therefore, it is not possible to accept the story which has been concocted by the respondent about his inability to comply with the order of the Court, in the absence of clarification/instructions issued by the Government. It is significant to note that so far as the respondent is concerned, he on his part never entertained any doubt about the scope and applicability of the judgment of the Supreme Court in Piara Singh's case. On his part, he did not write even a single letter to the departmental authorities for clarification of the alleged ambiguity in the existing instructions of the Government. In fact his entire affidavit is conspicuously silent about the efforts made by him and the steps taken by him for implementation of the Court's order. Therefore, we are firmly of the opinion that the respondent did not take any step to carry out the Court's order for a period of over one year and six

months despite full knowledge of the direction given by the High Court. Complete silence on the part of the respondent and his total failure to take even a single step for compliance of the Court's order is sufficiently indicative of the bent of mind of the respondent i.e. to ignore the Court's order. The respondent was totally remiss in his duty to comply with the Court's order. We are further of the view that the silence on the part of the respondent for a period of over one year and six months and his failure to comply with the court's order cannot but be treated as wilful disobedience of the Court's order.

The people of India have constituted India into a Sovereign Socialist Secular Democratic Republic. The State has three organs, namely, Legislature, Executive and the Judiciary. The constitution has demarcated the area of functioning of these three organs for the smooth running of the democracy. For maintaining rule of law, which is the corner stone of every democracy, each organ has to act within the sphere of its authority and respect the authority of the other organ of the State. Under the Constitution, legislature has been entrusted with the task of enacting laws for giving effect to the constitutional provisions and policies of the Government intended to achieve the goal of social, economic and political justice, liberty of thought, expression, belief and equality of status and opportunity. The Executive has to give effect to these legislative enactment and carry out the orders of the Government. The judiciary has been assigned the task of administration of justice. A pious obligation has been imposed on the judiciary of the country to adjudicate upon the constitutional validity of the laws enacted by the legislature and the actions of the administrative authorities.

The constitution has conferred wide powers of judicial review on the Supreme Court and the High Courts. It is a constitutional obligation of the courts to keep the executive within the well define limits. Even the legislative instruments are subject to judicial review and the courts have been vested with the powers to struck down a law in case it is found to be contrary to the constitution or is beyond the lagislative power of the legislature. Although judiciary does not possess police power under our constitution, a system of check and balance which is inherent in the constitutional frame-work enjoins upon all to respect the orders of the court. If the orders of the courts are defied by the legislature or the executive the whole edifice on which the democratic system rests will collapse.

The idea of contempt of court has emerged with the emergence of the rule of law and generally speaking any conduct that tends to bring the authority and administration of law into disrepute or disrespect or any act which interferes with the administration of justice is contempt of court.

In india the history of "Law of contempt" can be traced as early as in 1560 (Mughal period). Instances can be found in *Tabaquat* quoted by Sterling in "crime and punishment in Mughal India". While Akbar was on his way to Punjab, Shah Abdul Mohwali in Jagrana of Hajar, wanted to salute him while seated on his hoarse. Akbar felt annoyed and handed him over to Shahabuddin Ahmed Khan to be kept in custody as a prisoner. In Kautilya's Arthasastra, details can be found regarding the theory of contempt of King and King's Council. Even judges who violated law were held liable for punishment. Kautilya was of the view that all persons who violated law were to be punished including who administer law and infact in the later case the punishment would be more severe.

Oswald in his work on 'contempt of Court' defines contempt as any conduct that tends of bring the authority and administration of law into disrespect or disrepute or to interfere with or prejudice parties or their witnesses during litigation.

The law of contempt of court in the modern sense as developed in our country is on the pattern of English Law. Source to punish contempt was an inherent power in England with all the courts of record. As soon as the courts of record were established in India under different charters, the power to punish contempt was necessarily given to these courts. When the Constitution of India came into force in 1950 some provisions relating to contempt matters were also included in it. The contempt of the Supreme Court and the High Courts as topics for legislation have been mentioned in the Union list and concurrent list. In the year 1952, the parliament enacted the contempt of Courts Act, 1952. After examining the law of contempt which developed during a period of almost two decades, the parliament enacted the Contempt of Courts Act, 1971. Under the Act of 1971, the term 'Contempt' has been defined in section 2, while section 2(b) defines Civil Contempts, section 2(c) defines 'Criminal Contempt.' For the purpose of the present case, it is sufficient to make reference to section 2(a) and (b) of 1971 Act :—

"2. In this Act unless the context otherwise requires,

(a) 'Contempt of Court' means civil contempt or criminal contempt ;

(b) 'Civil Contempt' means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court."

The above quoted definition is in consonance with the views expressed by the English and Indian Courts from time to time and the Parliament in India has tried to give a concrete shape to the law of contempt by enacting 'Contempt of Courts Act, 1971'. The object of contempt proceedings is primarily to protect the public confidence in the system of administration of justice.

In *Brahm Prakash Sharma* v. *State of U.P.* (2), the Hon'ble Supreme Court underlined the object of contempt proceedings in the following words :

"The summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the courts. The object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals, it is intended to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the sense of confidence which people have in the administration of justice by it is weakened."

In *Aligarh Municipal Board* v. *Ekka Tonga Mazdoor Union and others* (3), the Supreme Court has observed as under :

"The contempt proceedings against a person who has failed to comply with the courts order serves a dual purpose ; (1) Vindication of the public interest by punishment of contemptuous conduct and (2) ciercion to compel the contemner to do what the law requires of him."

In *Advocate General Bijar* v. *Madhya Pradesh, Khair Industries* (4), the Supreme Court held :

(2) A.I.R. 1954 S.C. 10.
(3) A.I.R. 1970 S.C. 1767.
(4) 1980 (3) S.C.C. 311.

"it may be necessary to punish as a contempt, a course of conduct which abuses and makes a mockery of the judicial process and which thus extends it pernicious influence beyond the parties to the action and affects the interest of the public in the administration of justice. The Court has the power to commit for contempt of court, not in order to protect the dignity of the court against insult or injury as the expression "contempt of Court" may seem to suggest, but to protect and to vindicate the right of the public that the administration of justice shall not be prevented, prejudiced obstructed or interferred with." It is a mode of vindicating the majesty of law, in its active manifestation against obstruction and outrage."

In *Hedkinson* v. *Hedkinson* (5), it has been held :

"It is the plain and unqualified obligation of every person against or in respect of whom the order is made by a court of competent jurisdiction to obey it unless and untill the order is discharged. The uncompromised nature of this obligation is shown by the fact that it extends even to cases where the persons affected by the order believes it to be irregular or even void."

Again in *Jennison* v. *Packer* (6), Courtish Releigh, J. observed :

"The law should not be seen to sit by simply, while those who defy it go free and those who seek its protection loose hope."

In *Bardkanta Mishra* v. *Bhimsen Dixit* (7), the Supreme Court observed as under :—

"The contempt of court is disobedience to the court by acting in opposition to the authority, justice, dignity thereof. It signifies a wilful disregard or disobedience of the court's order. It also signifies such conduct as tends to bring the authority of the court and the administration of law into disrepute (*vide* 17 Corpus Juris Secundum pages 5 and 6 ; Contempt by Edward N. Dancel (1939) Edn. page 14. Oswald's Contempt of Court (1910) Edn. pages 5 and 6.)"

These authorities clearly show that every one howsoever high, he may be, is bound to carry out the courts order. The order passed by

(5) 1952 (2) All.E.R. 567.
(6) A.I.R. 1972 (1) All.E.R. 997.
(7) A.I.R. 1972 S.C. 2466.

a court of competent jurisdiction is binding on all concerned. Those who disregard the Court's order, do so at their own peril. No one can think himself above the law and the court is under a duty to see that confidence of the public in the institution of courts is not shaken by the executive authorities by their disregard to the orders of the Court.

We may also advert to the word 'wilful' used in section 2(b) of the Contempt of Courts Act because learned counsel for the respondent has vehemently argued that even though respondent may be guilty of non-compliance of the Court's order, he cannot be held guilty of wilful disobedience of the Court's order. According to Stroud's Judicial Dictionary, Fifty Edition, the word 'wilful' implies nothing blameable, but merely that the person of whose action or default the expression is used is a free agent, and that what has been done arises from the spontaneous action of his will. It amounts to nothing more than this, that he knows what he is doing, and intends to do what he is doing, and is a free agent, what is intentional is 'wilful'. The ordinary meaning of 'wilful' as defined in Concise Oxford Dictionary is that, action or state for which compulsion or ignorance or accident cannot be pleaded as excuse, intentional, deliberate, due to perversity or self-will.

According to Black's Law Dictionary (Revised 4th Edition, 'wilfulness' implies an act done intentionally and designedly ; "wantonness" implies action without regard to the rights of others, a conscious failure to observe care, a conscious invasion of the rights of others; wilful unrestrained action and "recklessness" a disregard of consequences, an indifference whether a wrong or injury is done or not. and an indifference to natural and probable consequences.

In *Stancomb* v. *Trowbridge Urban District Council* (8), Warrington. J. said :

> "In my judgment if a person or a corporation is restrained by injunction from doing a particular act. that person or corporation commits a breach of the injuction. and is liable for process for contempt, if he or it in fact does the act, and it is no answer to say that the act was not contumacious in the sense that, in doing it, there was no direct intention

(8) (1910) 2 Ch. 190.

to disobey the order. I think the expression "wilfully" in Or. XLII Rule 31 is intended to exclude only such casual or accidental and intentional acts as are referred to in *Fairclough* v. *Manchester Ship Canal Company*."

This view was followed by house of Lords in *Heaons Transport Ltd.* v. *Transport and General Workers Union* (9). The House of Lords observed :

"to establish that disobedience was wilful, it was not necessary to show that it was contumacious in the sense that there was a direct intention to disobey the order ; it was sufficient to show that disobedience was not casual or accidental or unintentional."

The House of Lords further observed :

"It is also the reasonable view, because a party in whose favour an order has been made is entitled to have it enforced and also the effective administration of justice normally requires that some penalty for disobedience to the order of the court if disobedience is more than casual, accidental or unintentional."

In *Tarafatullah* v. *S. N. Maitra* (10), the Calcutta High Court had dealt with the provisions of contempt of Courts Act, 1926 and observed as under :

"When an injuction is granted against a Corporation, which afterwards does or permits an act in breach of the injunction, there is a wilful disobedience of the order and it will be no answer for the corporation to say that the act was done or the omission allowed to occur unintentionally, or through carelessness or through dereliction of duty on the part of servants of the corporation. The same principles would apply in the case of a Government or a State, but before an individual officer of the Government can be held to be liable, it must be established that he was the person incharge of the subject matter to which the injunction or order, alleged to have been disobeyed, related and unless that is established, no case against an individual officer can succeed."

(9) (1972) (3) All. E.R. 101.
(10) 1953 Crl.L.J. 136.

From the above quoted dictionary meaning of the term 'wilful' and the decisions of the Courts, it is reasonable to derive that term 'wilful disobedience' used in section 2(b) of the Contempt of Courts Act, 1971 cannot be construed to mean that an act must in all cases be designed and deliberate to be held as Civil Contempt. If a party who is fully in know of the order of the court or is conscious and aware of the consequences and implications of the Court's order, ignores it or acts in violation of the Court's order, it must be held that disobedience is wilful. In our view ordinarily it is never practicable to prove the actual intention behind the act or omission. A court can approach the question only objectively and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act.

We may now examine the explanation of the respondent for deciding as to whether he has committed contempt of court or not. It is necessary to once again emphasis that High Court had decided the previous petition filed by the petitioners,—*vide* its order dated 3rd December, 1992 and had given an unequivocal direction to the respondents in the petition including the Executive Engineer to consider the cases of the petitioners for regularisation in accordance with the judgment of the Supreme Court in Piara Singh's case and instructions which may have been issued by the Government after that decision. The High Court neither intended nor it could have intended that the compliance of this court's order would depend on some future instructions to be issued by the Government. To us it is clear that the High Court had given a direction to the respondents including Executive Engineer to deal with the cases of the petitioners in accordance with the judgment of the Supreme Court in Piara Singh's case and instructions issued by the Government after Piara Singh's case but before 3rd December, 1992. It was, therefore, imperative for the respondent to have examined the claim of the petitioners for regularisation of service after they had served for 10 years. The respondent did nothing to comply with the Court's order. His plea that he was unaware of the circular dated 6th April, 1990 which the Government of Haryana had produced before the Apex Court is unbelievable. If the respondent had taken a little trouble to scan through the judgment of the Supreme Court and the direction given by it, it could not have been possible for him to ignore the fact that persons who had completed 10 years service had acquired the right to be regularised in service. The respondent deliberately avoided compliance of the Court's direction. His omission take to any action in the matter is by

itself conclusive of his intention to disregard the direction given by the High Court. Therefore, explanation of the respondent that he was not fully cognizent of the direction given by the Supreme Court deserves to be rejected. Equally worthless is the explanation of the respondent that the Government had issued instructions dated 27th May, 1993 and clarifications dated 18th March, 1994 and 31st May, 1994 and, therefore, he could not have carried out the order upto 31st May, 1994. Insofar as he is concerned, the respondent did not make any reference to the Engineer-in-Chief, P.W.D. (B&R), Haryana or to any other authority of the Government expressing any difficulty in compliance of the earlier instructions issued by the Government. He never asked his superiors to give him guidance in the matter. He cannot possibly plead that he had knowledge of the fact that some instructions will be issued by the Government on the question of regularisation of service of the work charged, daily wage and casual employees. Infact the instructions issued on 27th May, 1993 and subsequent clarifications given by the Government have no reliance to the claim of the petitioners for regularisation of service on the premise that they had completed 10 years service and were entitled to the benefit of judgment of the Supreme Court in Piara Singh's case. By making reference to the circular dated 27th May, 1993 and subsequent clarifications issued by the Government which related to regularisation of service of the employees who had completed 5 years service has been an attempt to mislead the court. In our considered opinion the respondent is not justified in trying to take shield of the circular dated 27th May, 1993 and susbequent clarifications for avoiding compliance of the court's order. We are further of the opinion that by passing the order dated 21st July, 1994 (Annexure R/5), the respondent has demonstrated his intention of total disregard of the Court's order.

Apart from the conclusion to which we have arrived at namely that the explanation offered by the respondent is no explanation to the charge of disobedience of the Court's order, we would like to make it clear that once an order is made by the Court and a person is charged with the allegation of non-compliance of that order, he cannot plead that he was waiting instructions from his superiors. No person who is under an obligation to comply with the Court's order can possibly contend that he is to seek instructions from his superiors before he could carry out his obligation of complying with the Court's order. The edifice on which the system of administration of justice rests would collapse if the Government and its functionaries were to give a license to disregard or disobey or ignore the Court's order on the flimsy pretext of compliance of some rules or

instructions of the higher authorities. A similar argument was advanced before the Andhra Pradesh High Court in *Taluri Seshaiah and another* v. *M. Narayan Rao* (11), and the Andhra Pradesh High Court repelled this argument in the following words :—

> "When an order of the High Court directs a person to do something or omit to do something. It is incumbent on that person to comply with that order forthwith without any doubt or hesitation in his mind. *The excuse that he may be found fault with by the higher authorities or that he should consult the higher authorities before complying with the orders of Court can be of no avail when he is asked to show cause why he should not be committed for contempt. No official superior can take any action against any of his Subordinates for complying with the orders of Court.*
>
> The risks involved in hesitation or delay, for whatever reason, in complying with the orders of Court are serious, and the person disobeying them or not complying with them will alone be responsible for the consequences and *he cannot be heard to say that he has referred the matter to his official superiors, and for that matter his official superior cannot give him any kind of protection. The arm of law is long enough to reach even the superior officers themselves if they give instructions contrary to the orders of the Court, or give an impression to the Subordinate officials that compliance with orders of Court, without their approval will open them to disciplinary action or make them blameworthy.*"

For the reasons stated above, we hold the respondent-N. S. Kanwar to be guilty of contempt of court on account of non-compliance of the direction given on 3rd December, 1992 in C.W.P. 1093 of 1990.

Having held the respondent guilty of contempt of Court, we may now examine the issue as to whether apology tendered by him should be accepted or not. In this regard, we may mention that although the respondent did not comply with the Court's order for sufficiently long

(11) 1967 Crl.L.J. 19.

time, after receipt of the notice of contempt he passed order dated 31st July, 1994 and at the same time tendered unqualified apology. Subsequently, he has passed two more orders dated 8th August, 1994 (annexures R/9 and R/10) giving benefit of regularisation of service to both the petitioners with effect from 1st October, 1988. In addition to this, learned counsel for the respondent has made a statement that all consequential benefits will be paid to the petitioners within a period of one month. This shows that at least after the receipt of notice of contempt, the respondent has taken steps for compliance of the Court's order dated 3rd December, 1992. In view of these orders and the unqualified apology tendered by the respondent, we do not consider it proper to impose any substantive sentence on the respondent. In our opinon the ends of justice would be served by administration of a severe reprimand to the respondent.

In the result, the respondent is held guilty of contempt of court but is let off with a severe warning. Taking note of the fact that the petitioners have been forced to file a second petition in the High Court on account of omission of the respondent to comply with the Court's order, we direct that the respondent shall pay costs of Rs. 1,000 to each of the petitioners.

S.C.K.

Before Hon'ble R. P. Sethi & Sat Pal, JJ.

RAM LAL,—*Appellant*

versus

SMT. SURINDER KAUR,—*Respondent*

L.P.A. No. 1576 of 1987

14th November, 1994

Hindu Marriage Act, 1955—Ss. 24 & 25—Grant of Maintenance allowance of permanent alimony—Wife's application for grant of maintenance of permanent alimony & child support—Court to grant maintenance only after it is satisfied that applicant is not able to support itself.

Held, that while granting the relief under Section 25 of the Act, the Court has to keep in mind the following consideration :—

(i) Husband's own income ;

(ii) Income of the husband's other property ;

(iii) Income of the applicant ; and

(iv) Conduct of the parties.