

the Act. The right asserted of 'Equal pay for Equal work' is, in the present case, not one which can by any means be described as an existing right. It is a right which, at the moment, has merely been asserted, but not yet adjudicated upon. This being so, according to the test laid down by the Supreme Court in *Central Inland Water Transport Corpn. Ltd.* (Supra), there can thus be no escape from the conclusion that the Labour Court lacked the requisite jurisdiction to grant to the respondent-employees the relief claimed. The impugned order of the Labour Court is consequently hereby set aside and these petitions are accepted. There will, however, be no order as to costs.

R.N.R.

Before G. R. Majithia, J.

BACHAN SINGH,—*Petitioner.*

versus

MALKIAT RAI,—*Respondent.*

Civil Revision No. 547 of 1989

18th September, 1990.

Contempt of Courts Act (70 of 1971)—S. 11—East Punjab Urban Rent Restriction Act, 1949—Ss. 10, 19—Non-compliance of the orders of Rent Controller by landlord—Rent Controller—Whether empowered to convict landlord under Contempt Act.

Held, that there is no provision in the Rent Act to convict and sentence a person who violates the provisions of sub-section (1) of S. 10, for a period of three months and detain him in civil prison. Under S. 11 of the Contempt of Courts Act, 1971, a High Court has the jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the persons alleged to be guilty of contempt is within or outside such limits. The conviction under the Contempt Act can only be recorded by the High Court and by no other Court. Assuming that the Rent Controller is a Court within the meaning of Contempt Act, it could submit the papers to the High Court for trying the proceedings under the Contempt Act against the landlord/petitioner and if it was satisfied that the landlord/petitioner had committed the contempt as defined under the Contempt Act, it could convict him. No power vests in the Rent Controller to convict the

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landlord for committing contempt under the Contempt Act. The order of the Rent Controller is patently illegal and the same is set aside. (Para 5)

Petition u/s 15(5) of Punjab Act No. II of 1949, read with Article 227 of the Constitution of India and Section 115 C.P.C. for reversal of the order of the Court of Shri Amarjit Singh Katari, PCS, Rent Controller, Ludhiana, dated 4/2/89, deciding the issues No. 1 and 2 in favour of the petitioner/tenant, and as per issue No. 3, ordering the respondent/landlord, to be sentenced to undergo civil imprisonment for three months.

CLAIM : Petition u/s 10 of the East Punjab Urban Rent Restriction Act 1949, (Now application for taking action for committing contempt of Court).

CLAIM IN REVISION : For reversal of the order of Lower Court.

H. L. Sarin, Sr. Advocate with Miss Jaishree Thakur, and Hemant Sarin, Advocate, for the Petitioners.

Nemo, for the Respondents.

JUDGMENT

G. R. Majithia, J.

(1) This revision petition is directed against the order of the Rent Controller convicting the petitioner under the Contempt of Courts Act and sentencing him to undergo three months' civil imprisonment.

(2) The facts :—

The tenant/respondent filed an application under Section 10 of the East Punjab Urban Rent Restriction Act, 1949 (for short, the Act) against the landlord/petitioner for restoring electricity of meter A/c No. M-13/2076 which was cut illegally by the latter. The Rent Controller allowed the application,—vide order dated November 17, 1983 and directed the landlord/petitioner to remove obstructions from the stairs and also restore the electricity connection after receiving the amount which according to him had fallen to the share of the tenant/respondent. The tenant/respondent filed an application on May 5, 1984 stating that the order dated November 17, 1983 passed by the Rent Controller was not complied with by the landlord. The landlord/petitioner controverted the allegations made in the application.

(3) The Rent Controller framed the following issues :—

1. Whether the petitioner Malkiat Rai has committed contempt of Court by disobeying the order dated 17th November, 1983 passed by Rent Controller ? OPA
2. Whether Bachan Singh has committed contempt of Court by disobeying the order dated 17th November, 1983 passed by the Rent Controller ? OPA
3. Relief.

(4) Both the issues were disposed of together. The Rent Controller found that the landlord had not complied with the order dated 17th November, 1983 passed by the Rent Controller. He further found that even if the landlord had sold the disputed premises to a third person, he could still be held liable for violating the order passed by the Rent Controller and as a result of these findings, he convicted and sentenced the landlord as indicated above, presumably under the Contempt of Courts Act.

(5) The order of the Rent Controller is without jurisdiction. Section 19 of the Act provides that any person contravening any of the provisions of sub-section (2) of Section 9, sub-section (1) of Section 10 or sub-section (11) of Section 18 *ibid* shall be punishable with fine which will extend to Rs. 1,000. A private complaint can be filed under Section 19 of the Act, provided sanction of the Rent Controller is obtained before instituting it. The court before whom the complaint is filed under section 19 of the Act will entertain it only if the conditions specified in sub-section (2) of Section 19 have been complied with. There is no proof that any such sanction was granted by the Rent Controller for initiation of the proceedings by the tenant. Even otherwise, if the proceedings had been initiated under Section 19 of the Act, the Court, on being satisfied that the provisions of sub-section (1) of Section 10 *ibid* had been contravend, could only punish the defaulter with fine, which may extend to Rs. 1,000. There is no provision in the Act to convict and sentence a person who violates the provisions of sub-section (1) of Section 10, for a period of three months and detain him in civil prison. Under Section 11 of the Contempt of Courts Act, 1971 (for short, the Contempt Act), a High Court has the jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local

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limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits. The conviction under the Contempt Act can only be recorded by the High Court and by no other Court. Assuming that the Rent Controller is a Court within the meaning of Contempt Act, it could submit the papers to the High Court for trying the proceedings under the Contempt Act against the landlord/petitioner and if it was satisfied that he landlord/petitioner had committed the contempt as defined under the Contempt Act, it could convict him. No power vests in the Rent Controller to convict the landlord for committing contempt under the Contempt Act. The order of the Rent Controller is patently illegal and the same is set aside.

(6) The petition is accordingly allowed, but there will be no order as to costs.

P.C.G.

Before G. R. Majithia, J.

SHAM DASS BALLA,—*Petitioner.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ Petition No. 899 of 1983.

18th September, 1990.

Punjab Municipal Corporation Services (Recruitment & Conditions of Service) Rules, 1978—Rls. 1, 14 & Note to Rl. 10—Punjab Municipal Corporation Act, 1976—S. 71(2)—Punjab Municipal Act, 1911—S. 38(2)—Inter-se seniority—Fixation of—Temporary appointment prior to 1978 Rules—Appointment approved from time to time by Public Service Commission and State Government till regular appointment—Such appointment—Not purely provisional but ad hoc appointment followed by regular appointment—Ad hoc service is to be counted for purpose of seniority—Note to Rl. 10—Interpretation of—Narrow construction—Applies only to purely provisional appointment and not ad hoc appointment followed by regular appointment—1978 Rules operate prospectively.

Held, that the period of temporary appointment ought to have been considered for fixing the seniority. (Para 13)