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

+ **CONT.CAS(C) 296/2009**

V.K. MALHOTRA H/O LATE SMT. RAJ MALHOTRA Petitioner

Through : Mr. V.K. Malhotra, Advocate.

versus

CHANDER BHUSHAN KUMAR & ORS. Respondents

Through : Mr. V.K. Tandon, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

30.11.2010

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1. Counsel for the petitioner submits that respondents have failed to comply with the directions contained in the judgment dated 4th August, 2008 passed in LPA 67/1995 (wrongly written as W.P.(C) No. 67/1995) in which the petitioner herein, was respondent No.1 as also directions contained in the judgment of the learned Single Judge of this Court dated 14th September, 1995 filed by the petitioner.
2. The necessary facts for the disposal of the present petition are that the petitioner was working as a TGT (Gen.) in Rattan Devi Arya Girls Senior Secondary School. Despite a vacancy having arisen for a PGT (Hindi), the petitioner, who was the senior most teacher, was not given the promotion. This led to the

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filing of W.P.(C) No. 2548/1981. The writ petition filed by the petitioner was allowed on 14th September, 1995, and the petitioner was directed to be promoted as a PGT.

3. By the present petition also the petitioner does not pray for financial benefit of a PGT but prays that the petitioner who has died in the year 2001 be given promotion. Mr. Tondon, learned counsel for the respondent submits that petitioner cannot avail the benefit of promotion as also the benefit of selection grade which allowed her to draw higher salary at a pay scale of ₹2000-3500 as compared to the scale of PGT that is ₹1640-2900. He submits that even otherwise, in view of the fact that there was only one post available and another writ petition was already pending having been filed by one Smt. Usha Kumari, PGT post was awarded to her after the retirement of the petitioner.
4. I have heard counsel for the parties. After the decision of the writ petition the petitioner, admittedly, addressed a communication to the respondents on 28th October, 1995. In this communication, the petitioner brought to notice of the school that during the pendency of the writ petition she was

awarded selection grade of ₹2000-3500 with effect from 15th July, 1988. It was further stated in this communication that keeping in view the judgment of the High Court which had allowed the petitioner all consequential benefits and ordered promotion retrospectively after a gap of sixteen years during which she had retired and was also granted a higher pay scale of ₹2000-3500 as compared to the scale of a TGT which is 1640-2900, she did not find any financial benefit in the matter so she wished to forgo all the financial benefits accrued to her in terms of the judgment but prayed that her designation may be changed.

5. Having regard to the fact that the petitioner had already derived the financial benefit of the selection grade in the pay scale of ₹2000-3500 compared to the pay scale of PGT of ₹1640-2900 and she continues to draw financial benefits which is higher to the scale of PGT post passed on her communication dated 28th October, 1995, I do not consider this a fit case to hold that the respondents have willfully violated the order passed by learned Single Judge.

6. Needless to say, in case the petitioner is willing to refund the financial benefit accrued to her, a proper representation may be made by her to the Director of Education, who will consider the same in accordance with law.
7. No grounds are made out for initiating contempt proceedings. Accordingly, the contempt petition stands dismissed. Notice of contempt stands discharged.

NOVEMBER 30, 2010

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G.S. SISTANI, J

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Cont Cas → Dismissed on
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- Fresh Review App u/o 47 & Sec
114 of CPC on b/o petitioner