

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CM No.4733-CII of 2015 and
COCP No.2695 of 2014 (O&M)

Date of Decision: March 11, 2015

Sh. Amar Singh and others

...Petitioner

Versus

Sh. Sanjay Kumar, IAS and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Aalok Jagga, Advocate
for the petitioners.

Mr. M.C. Berry, Additional Advocate General, Haryana
for the respondents.

Mr. M.K. Bhandari, Advocate
for the applicants-interveners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court by way of the present contempt petition asserting that the order dated 21.02.2014 (Annexure P-3) passed by this Court while issuing notice of motion in **CWP No.3374 of 2014** titled as **Jaspal Singh Vs. The State of Punjab and another**, stands violated as the Court had restrained the respondents to make promotion in pursuance to any decision taken in the Departmental Promotion Committee meeting, which was scheduled for the said date. He states that despite there being this restraint order, respondents have promoted eight Assistants Superintendents to the post of Deputy Superintendent Grade II. This promotion order is, therefore, violative of the order dated 21.02.2014 passed by this Court, thus, committing contempt of Court.

Counsel for the respondents, on the other hand submits that the restraint order has been understood by the respondents in the context with which the prayer was made in the writ petition. He has referred to the prayer clause of the writ petition, which reads as follows:-

- (i) *That this Hon'ble court may be pleased to issue a writ thereby directing the respondents to finalise the common seniority between the Clerical Staff of Head Office and Field Staff and only thereafter the promotion may be made to the post of Deputy Superintendent Grade-II.*

AND

an appropriate writ may be issued thereby restraining the respondents from holding the DPC for promotion to the post of Deputy Superintendent Grade II from amongst ministerial cadre in accordance with the Rule 8 of the Punjab Prisons State Service (Class II) Rules, 1978 and as an interim relief the respondent No.1 may kindly be restrained from holding DPC fixed for 21.2.2014.

OR

Any other appropriate writ order or direction may be issued which is deemed fit in the circumstances of the case.

He contends that the respondents proceeded on the assumption that the same would relate to the prayer as has been made in the writ petition, wherein it was prayed that the direction be issued to the respondents to finalize the common seniority between the clerical staff of Head Office and field staff and further that the holding of the DPC for promotion to the post of Deputy Superintendent Grade-II from amongst the ministerial cadre be done in accordance with Rule 8 of the Punjab Prisons State Service (Class-II) Rules 1978. Mr. Berry has further referred to para 7 of the affidavit of the Principal Secretary to Government of Punjab, Department of Home (Jails), to state that no promotion, therefore, in view of this prayer qua the ministerial cadre was granted as per the order passed by this Court. He further on instructions from Mr. Raman Kumar, states that as

a matter of fact no DPC was held qua the ministerial cadre in pursuance to the restraint order passed by this Court in the writ petition.

He states that in any case, the order as passed by this Court and as understood by the respondents, has been complied with and there has not been any intentional violation of the order passed by this Court. He on this basis contends that no contempt has been committed by the respondents. A further submission has been made by him that the interim order, contempt of which has been alleged by the petitioner, having been fully complied with, the contempt petition deserves to be dismissed. It is asserted that CWP No.3374 of 2014 in which the interim order was passed stands dismissed as withdrawn by the petitioner therein vide order dated 30.01.2015. The petitioners in the present contempt petition, who were parties to the dispute have been left at liberty to agitate the matter regarding seniority before the competent authority, if the situation so warrants.

In view of the above, I am unable to accept the plea of the counsel for the petitioner that there has been intentional violation of the interim order dated 21.02.2014 passed by this Court in the writ petition. It could at best be said to be a *bona fide* interpretation of the order assuming it being taken as a blanket ban on consideration of the proceedings of the DPC. In any case with the withdrawal of the writ petition, the interim order has merged with the final order and the petitioners herein have already been given liberty to agitate their claim as far as their seniority is concerned, if any by the Writ Court vide order dated 30.01.2015. It may however, be clarified here that the process of promotion of ministerial cadre having been stalled because of the pendency of this contempt petition, as has been stated by the respondents in CM No.4572-CII of 2015 and in para 6 and 7, which

read as follows:-

6. *That due to shortage of officers the jail Department is facing managerial problem as the jails are over crowded with prisoners and under trials. The nature of duties is administrative, managerial, security, supervising mess/Langer, apart from this officers with supporting staff are on 24 hours duty by the rotation. In these circumstances filling of vacant posts of officers is very essential.*
7. *That it is further submitted that for internal and external management of the jails there is urgency to fill up the posts lying vacant by way of promotion. There are total 8 Central Jails in the state of Punjab where on Deputy Superintendent Jails Grade-II each is required to be deployed for maintaining the internal and external security of the jails. Similarly in the District Jails nine Deputy Superintendent jails Grade-II each are required for maintenance of Security in the Jails. Beside it, one post is sanctioned for Training School Patiala, two posts are required for Head Office Chandigarh (one for Security/Protocol and other one for control room), one post is required for Borstal Jail Ludhiana for maintenance of Security. It is further submitted that at present only 18 Deputy Superintendent Jails Grade-II are working on regular pay scale and 47 posts are lying vacant. Keeping in view the shortage of officers State Government has sanctioned 23 new posts of Deputy Superintendent Grade-II of Jails and all these posts are to be filled up keeping in view shortage of staff and some Assistant Superintendent Jails are working as Deputy Superintendent Grade-II (OWN PAY SCALE). So it is just and expedient to fill up all the vacant posts keeping in view the effective Management of prisoners/jails.*

There being shortage of officers because of which the Department of Jails is facing a managerial problem, there is an urgency to fill up the posts lying vacant, by way of promotion.

In view of this position, direction is issued to the respondents that the process of promotion to the post of Deputy Superintendent Grade II be initiated and completed within a period of four weeks from today.

The contempt petition stands disposed of accordingly.

In view of the order passed in the main contempt petition, all pending applications stand disposed of.

March 11, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**