

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

CWP No.15055 of 2015 (O&M)

Date of Decision: 28.03.2016

RP Upadhyaya & Anr.

... Petitioners

VS.

Joginder Singh & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Mr. Raghav Goel, Advocate for
Mr. Harkesh Manuja, Advocate for the petitioners

Mr. NP Mittal, Advocate for respondent No.1

SURYA KANT, J. (Oral)

(1) The first respondent was selected for appointment as Constable in Chandigarh Police whose appointment was withheld as meanwhile he was found involved in a criminal case. That action of the authorities prompted the first respondent to approach the Central Administrative Tribunal, Chandigarh Bench (in short, 'the Tribunal'), who vide order dated 12.03.2003 allowed the Original Application with a direction to appoint the first respondent as Constable within thirty days from the date a certified copy of its order was produced. The Chandigarh Administration challenged the order of the Tribunal before this Court and operation of that order came to be stayed on 22.04.2003. A Division Bench of this Court finally allowed the writ petition on 14.03.2008 setting aside the Tribunal's order. The first respondent approached the Hon'ble Supreme Court and vide judgement dated 11.11.2014 the judgement

of this Court was set aside and that of the Tribunal was upheld directing the authorities to comply with the Tribunal's order "by issuing appointment letter to the appellants within four weeks from the date of receipt of the copy of..." Supreme Court order.

(2) The first respondent meanwhile filed contempt proceedings alleging non-compliance of the Apex Court order. Regardless of the fact that the appointment letter was issued offering him appointment, the Tribunal in the contempt proceedings passed the impugned order dated 28.05.2015 (P9) directing that respondent No.1 is "*entitled for all consequential benefits which were given to similarly situated persons who were selected and offered appointment letter in the year 2000*". The authorities were granted one month time "*for grant of all consequential benefits*" in favour of respondent No.1.

(3) The above-stated order is under challenge in the instant writ petition.

(4) We were conscious of the *dictum* in **T.Sudhakar Prasad vs. Government of Andhra Pradesh (2001) 1 SCC 516** regarding maintainability of writ petition against an order passed by the Central Administrative Tribunal in exercise of its contempt jurisdiction but having regard to the contention that the impugned order in fact tantamounts to exercise of jurisdiction vested in the Tribunal within the ambit of Section 11 of the Administrative Tribunal Act, 1985, we called upon respondent No.1 to explain as to

how the impugned direction for granting all consequential benefits could be issued by Tribunal when no such relief, directly or indirectly, has been granted by the Apex Court or the Tribunal vide order dated 12.03.2003.

(5) The scope of the jurisdiction exercisable by the Tribunal under the Contempt of Courts Act is yet another question raised in these proceedings.

(6) Learned counsel for the first respondent is unable to support the order passed by the Tribunal granting all consequential benefits by way of an interlocutory order passed in contempt proceedings. We are also of the view that the question whether or not the first respondent is entitled to consequential benefits can be gone into by the Tribunal in an Original Application that may be filed by him on the plea of discrimination and/or parity with other similarly-placed appointees. The scope of the contempt jurisdiction was limited to examine whether or not the order passed by the Tribunal in March 12, 2003 as approved by the Apex Court has been complied with in its true letter and spirit. Such jurisdiction need not be enlarged to determine the issues like entitlement towards consequential benefits.

(7) For the reasons afore-stated, we allow this writ petition and set aside the impugned order dated 28.05.2015 passed by the Tribunal and hold that contempt proceedings filed by first respondent have been rendered infructuous after his appointment.

However, if the first respondent is entitled to any consequential benefits, liberty is granted to him to raise such claims by way of an appropriate Application before the Tribunal.

(8) Ordered accordingly.

(Surya Kant)
Judge

28.03.2016
vishal shonkar

(P.B. Bajanthri)
Judge