

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

COCP 1853 of 2017

Date of Decision: July 17, 2017

Manohar

.....Petitioner

Vs.

Sh.S.K. Gulati, IAS and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Deepak Sonak, Advocate for the petitioner.

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M.M.S. BEDI, J. (ORAL)

The petitioner through instant contempt petition has sought launching of contempt proceedings against the respondents on the ground that the order dated January 23, 2017 has not been complied with.

With the assistance of counsel for the petitioner, I have gone through the order dated January 23, 2017 passed in CWP No. 5648 of 2014.

The operative part of the judgment reads as follows:-

“In the circumstances, this writ petition is allowed and the respondents are directed to consider the case of the petitioner for regularization of his services from the date services of his juniors were regularized. Necessary

exercise be carried out within two months from the date of receipt of a certified copy of this order.

Since the main case has been decided, the pending C.Ms., if any, also stand disposed of.”

Counsel for the petitioner submits that the word used in the above said order “allowed” would mean that the respondents are required to consider the case of the petitioner and allow the regularization of his services from the date the services of his juniors were regularized.

I have heard counsel for the petitioner. Pursuant to the directions passed by Single Bench of this Court on January 23, 2017 abovementioned, the respondent Divisional Forest Officer has considered the case of the petitioner for regularization but in view of the interim order passed in CWP No. 17206 of 2014- Ashok Tyagi and another Vs. State of Haryana and ors., he has expressed his inability to pass an order for regularization of the services of the petitioner. The operative part of the order passed by the respondent is as follows:-

“It is pertinent to observe that the Hon’ble Division Bench of the Punjab and Haryana High Court, Chandigarh in CWP No. 17206 of 2014 titled as Yogesh Tyagi and another Vs. State of Haryana and others, has passed an interim order dated 2.9.2016, the operative part of which is as follows:-

“Having heard learned counsel for the parties, prima facie we satisfied that the impugned policy runs contrary to the mandate of the Constitutional Bench

judgment in the “Secretary, State of Karnataka and others Vs. Uma Devi and others”, (2006) 4 SCC 1. Hence further regularization of services under the said policy shall remain stayed till the final decision. The regularization orders, if any, passed earlier shall be subject to final outcome of the writ petition”. Moreover, in light of the aforementioned order, the Chief Secretary to Government of Haryana vide letter No. 26/2015-1GS1 dated 15.9.2016 has instructed that no further regularization of services of employees shall be made under the said regularization policies issued/ revived on or after 16.6.2014. It has also been instructed thereunder that regularization orders, if any issued earlier shall be subject to the final outcome of the Civil Writ Petitions.

In view of the aforementioned order dated 2.9.2016 passed by the Hon’ble Division Bench of the High Court and the above-cited instructions dated 15.09.2016 from the Chief Secretary to Government of Haryana, services of Sh. Manohar cannot be regularized.”

After hearing counsel for the petitioner, this Court is of the considered opinion that the order dated January 23, 2017 required the respondent authorities to consider the case of the petitioner for regularization from the date, the services of his juniors were regularized. Having considered the case of the petitioner vide order annexure P-2, the order has

been complied with. If the petitioner is not satisfied with the order dated May 2, 2017 and has got a grievance that it runs contrary to the spirit of the order dated January 23, 2017, it will always be open to the petitioner to challenge the order annexure P-2. There does not appear to be any willful disobedience of the order passed by this Court.

I have also considered the contention of learned counsel for the petitioner that the orders regarding staying of the operation of the policies having been raised and rejected by the Single Bench, it was mandatory of the respondent authority to pass the regularization order of the petitioner from the date services of his juniors had been regularized.

Since this Court has left the interpretation/ clarification of the order dated January 23, 2017 open, the petitioner can seek the said interpretation by filing a separate writ petition while challenging the order annexure P-2, attached with the contempt petition.

The contempt petition is dismissed without prejudice to the rights of the petitioner to avail the alternative remedies available to him in accordance with law by challenging the order annexure P-2.

July 17, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.