

COCp-578-2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCp-578-2017 (O&M)

Date of Decision: May 31, 2017

Mohinder Pal

...Petitioner

Versus

Gurkirat Kirpal Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Amit Sharma, Advocate
for the petitioner.

Mr. Sumit Jain, Advocate
for the respondents.

AUGUSTINE GEORGE MASI, J. (Oral):

CM-9683-CII-2017

Counter affidavit of the petitioner is taken on record, subject to
all just exceptions.

Application stands disposed of.

COCp-578-2017

Petitioner has approached this Court asserting violation of the
order dated 09.09.2016 passed by this Court in CWP No.12424 of 2004,
titled as 'Mohinder Pal Vs. Punjab State Cooperative Supply and Marketing
Federation Ltd. & another', which was preferred by the petitioner.

It is the basic assertion of the counsel for the petitioner that the
finding recorded by this Court in the order dated 09.09.2016 has been

sought to be violated by the respondents by passing the order dated 14.12.2016, wherein, the claim of the petitioner has been scuttled on the basis of the wrong facts, which have been taken on record and the details with regard to the grant of pay-scale. He contends that the said order having been passed in violation of the order passed by this Court renders the respondents liable to be proceeded against under the Contempt of Courts Act, 1971.

I have considered the submissions made by the counsel for the petitioner and with his assistance have gone through the operative part of the judgment passed by this Court on 09.09.2016, which reads as follows:-

“In the appointment letter dated 30.11.1993 issued to one Ranbir Singh, the pay scale has been mentioned as ₹ 1200-2130 w.e.f. 31.05.1993.

On perusal of the documents as discussed above including affidavit dated 23.12.2015, it appears that the stand of the respondents is contradictory as the pay scale for the post of Gate Clerk/ Clerk is ₹ 1200-2100 w.e.f. 01.11.1992, which was revised to ₹ 1200-2130 w.e.f. 01.01.1993 and further revised to ₹ 4020-6200 w.e.f. 01.01.1996. The said pay scale was granted to similarly situated Raghbir Singh but subsequently, the same has been withdrawn on raising objection by the Audit Department. It appears that the stand/action of the respondents is not consistent.

Accordingly, the present writ petition is disposed of with a direction to the respondents to re-consider the case of the petitioner for grant of pay scale as claimed in this petition after taking into consideration the above discussion as well as the documents available on record including the pay scale granted to other similarly situated persons. The necessary exercise be done after giving opportunity of hearing to the petitioner as well as by passing a speaking order within a period of three months from the date of receipt of certified copy of this order.

In case, the petitioner is found to be entitled for the relief as prayed in the present petition, the same be released to him and in case, the petitioner is still aggrieved by any action of the respondents, he is at liberty to avail the appropriate remedy.”

A perusal of the above would show that there is no finding recorded or returned by this Court and that is the precise reason, because of the confusion created by the respondents by granting a particular pay-scale and thereafter, withdrawing it on an audit objection, the Court had proceeded to give a direction to the respondents to re-consider the case of the petitioner as per the observations made therein. The limited aspect which has been mentioned in the order is to re-consider the case of the petitioner for the grant of pay-scale as claimed by him after taking into consideration the records and the documents available for the grant of pay-

scale, which has been granted to similarly placed employees. An opportunity of personal hearing was ordered to be given to the petitioner prior to passing of the speaking order within a period of three months.

It is not in dispute that the petitioner was given an opportunity of personal hearing and on consideration thereof and after hearing him, the order dated 14.12.2016 has been passed. If there are some discrepancies in the said order and wrong facts have been taken into consideration by the respondents, that would be a good ground for challenging the said order in appropriate proceedings, which option the petitioner has exercised and it has been admitted by the counsel that the petitioner has challenged the said order by filing CWP No.7841 of 2017, titled as 'Mohinder Pal Vs. The Punjab State Cooperative Supply & Marketing Federation Ltd. & others'.

In view of the above, this Court is of the considered view that the respondents have not violated the directions issued by this Court in the order dated 09.09.2016. The contempt petition being devoid of merit stands dismissed.

Rule issued to the respondents stands discharged.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 31, 2017
Harish

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No