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

+ CONT.CAS(C) 470/2013

K C GUPTA

..... Petitioner

Through: Mr. Sudhir Sharma, Advocate.

versus

CHIEF SECRETARY

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr. Naushad Ahmed Khan, Advocate  
with Mr. Manzar Anis, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**

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**17.03.2017**

Present contempt petition has been filed alleging wilful disobedience of the order dated 02<sup>nd</sup> January, 2013 passed by a Division Bench of this Court in W.P.(C) 7006/2007 whereby the respondents were directed to fix the petitioner's salary in the replacement pay scales with reference to the selection scale. It was clarified that a detailed order with computations would be passed and communicated to the petitioner within eight weeks.

The order in question was to highlight the replacement (i) entry scale, (ii) senior scale and (iii) selection scale when the recommendations of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Central Pay Commissions were implemented. It was further clarified by the Division Bench that if as a result of the revised computations, payments become due to the petitioner, the same be released

within four weeks along with simple interest @ 6% per annum.

Learned counsel for petitioner states that petitioner has not been given the selection scale in accordance with the 4<sup>th</sup> and 5<sup>th</sup> Central Pay Commissions.

A perusal of the paper book reveals that a detailed order dated 11<sup>th</sup> November, 2013 was passed pursuant to the Division Bench's order dated 02<sup>nd</sup> January, 2013 giving detailed information about the pay scales that the petitioner was entitled to. The relevant portion of the order dated 11<sup>th</sup> November, 2013 is reproduced hereinbelow:-

“3. And whereas, Sh. K.C. Gupta was holding the post of ASSTT. Tr. prior to 07/11/1979 when he was appointed as TGT as a direct recruit.

4. And whereas, the 3<sup>rd</sup>, 4<sup>th</sup> & 5<sup>th</sup> Pay Commission had recommended the following pay scales for the Entry Scale, Sr. Scale & Selection Scales for the post of ASSTT. Tr.

|                                      |                       |                                       |
|--------------------------------------|-----------------------|---------------------------------------|
| <u>Before 01/01/1973</u>             | <u>Ordinary Scale</u> | <u>Selection Grade for Asstt. Tr.</u> |
| <u>3<sup>rd</sup> Pay Commission</u> | 165-350               | 340-20-400                            |

|            |                        |                        |
|------------|------------------------|------------------------|
| 01/01/1973 | <u>Entry Grade for</u> | <u>Selection Grade</u> |
|            | <u>Primary Tr.</u>     |                        |
|            | 330-560                | 530-20-630             |

4<sup>th</sup> Pay Commission

|                     |                             |                        |
|---------------------|-----------------------------|------------------------|
|                     | <u>Sr. Scale in lieu of</u> | <u>Selection Scale</u> |
|                     | <u>Selection grade</u>      | <u>New</u>             |
| <u>Introduction</u> |                             |                        |

|            |           |           |           |
|------------|-----------|-----------|-----------|
| 01/01/1986 | 1200-2040 | 1400-2600 | 1640-2900 |
|------------|-----------|-----------|-----------|

5<sup>th</sup> Pay Commission

|            |           |           |            |
|------------|-----------|-----------|------------|
| 01/01/1996 | 4500-7000 | 5500-9000 | 6500-10500 |
|------------|-----------|-----------|------------|

10. And whereas, the 4<sup>th</sup> Pay Commission had recommended Sr. Scale for the post of Asstt. Tr./Primary Tr. Rs.1400-2600 in the Entry Grade of TGT which Sh. K.C. Gupta was holding at the time of recommendations of 4<sup>th</sup> Pay Commission on 01/01/1986 and his pay was accordingly fixed in the pay scale of Rs.1400-2600 @ Rs.2360/- as he was drawing his pay Rs.750+25+25 on 31/12/1985 in the Pay Sale of Rs.440-750.

|                    |                  |               |
|--------------------|------------------|---------------|
| <i>Present pay</i> | <i>pay fixed</i> | <i>W.E.F.</i> |
|--------------------|------------------|---------------|

Rs.750+25+25=800/-

|                  |           |            |
|------------------|-----------|------------|
|                  | Rs.2360/- | 01/01/1986 |
| <i>Increment</i> | Rs.2420/- | 01/01/1987 |
| <i>Increment</i> | Rs.2480/- | 01/01/1988 |
| <i>Increment</i> | Rs.2540/- | 01/09/1989 |
| <i>Increment</i> | Rs.2600/- | 01/01/1990 |

11. And whereas, on completion of 12 Years of service on the post of TGT which he joined on 08/11/1979, Sh. K.C. Gupta was granted Sr. Scale of the post of TGT i.e. Rs.1640-2900 w.e.f. 08/11/1991 and his pay was accordingly fixed @ Rs.2675/- as he was drawing @ Rs.2600/- in the Entry Scale of TGT on 08/11/1991.

|                    |                  |               |
|--------------------|------------------|---------------|
| <i>Present pay</i> | <i>pay fixed</i> | <i>W.E.F.</i> |
| RS.2600/-          |                  |               |

|                                  |           |                     |
|----------------------------------|-----------|---------------------|
| <i>Increment of Senior Scale</i> | Rs.2675/- | 08/11/1991          |
| <i>Increment</i>                 | Rs.2750/- | 01/01/1992          |
| <i>Increment</i>                 | Rs.2825/- | 01/11/1993          |
| <i>Increment</i>                 | Rs.2900/- | 01/11/1994(Maximum) |
| <i>Pay Stagnation</i>            | Rs.2900/- | 01/11/1995          |

12. And whereas, the 5<sup>th</sup> Pay Commission had recommended Entry Grade of Rs.5500-9000 and Sr. Scale of Rs.6500-10500 for TGT. Accordingly the Pay of Sh. K.C. Gupta was fixed in the Sr. Scale of TGT Rs.6500-10500 @ Rs.9100/- w.e.f. 01/01/1996.

*Pay fixed as per recommendation of 5<sup>th</sup> pay commission in the pay scale of Rs.6500-200-10500 w.e.f. 01/01/96 with DNI 01/01/97*

| <i>MAXIMUM</i>             | <i>PAY FIXED</i>                  | <i>W.E.F.</i>   |
|----------------------------|-----------------------------------|-----------------|
| <i>RS 2900/-</i>           | <i>RS.9100/-</i>                  | <i>01/01/96</i> |
| <i>Increment</i>           | <i>RS.9300/-</i>                  | <i>01/01/97</i> |
| <i>Increment</i>           | <i>RS.9500/-</i>                  | <i>01/01/98</i> |
| <i>Date Next Increment</i> | <i>NONE RETIRED ON 31.12.1998</i> |                 |

*13. And whereas, the fixation of Pay from time to time is in consonance with the recommendations of 3<sup>rd</sup>, 4<sup>th</sup> & 5<sup>th</sup> Pay Commission and also in time of the instructions issued from time to time by the Education Department, Govt. of NCT of Delhi.*

*Now, therefore, in pursuance or order of Hon'ble High Court of Delhi dated 02/01/2013 in Writ Petition No.7006/07, Sh. K.C. Gupta, TGT (Drg.) Retd. (Petitioner) is here by conveyed that his pay was fixed from time to time is in accordance to rules and instructions issued by the Govt. of India and Education Department, Govt of NCT of Delhi."*

According to the learned counsel for respondent-GNCTD, the arrears in accordance with the order dated 11<sup>th</sup> November, 2013 have been paid.

In rejoinder, learned counsel for petitioner denies that the entire payment has been paid to the petitioner. He states that the selection scale being offered by the respondents is not in consonance with the Gazette Notification dated 08<sup>th</sup> October, 1997 issued by the GNCT of Delhi, Finance (Budget) Department.

However, upon perusal of the papers and the Division Bench's order, this Court is of the view that respondents had to fix the petitioner's salary in the replacement pay scales with reference to the selection pay scale and pass

a detailed order with computations.

Since in the present case, that detailed order with computations as directed by the Division Bench in its judgment and order dated 02<sup>nd</sup> January, 2013, has been passed and according to the respondents the salary due and payable has been paid, this Court is of the view that if the petitioner is aggrieved by the order dated 11<sup>th</sup> November, 2013, he has to file appropriate proceedings in accordance with law. It is not open to this Court in contempt proceedings to determine whether selection scale offered by the respondent is appropriate or not.

Consequently, no further orders can be passed in the present contempt petition. Accordingly, present contempt petition is closed and the notices issued are discharged.

However, petitioner is given liberty to challenge the order dated 11<sup>th</sup> November, 2013, if he is aggrieved by the same, in accordance with law.

**MANMOHAN, J**

**MARCH 17, 2017**

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