

COC-650-2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COC-650-2017 (O&M)

Date of Decision: October 04, 2018

Dr. Oma Wati Sharma

...Petitioner

Versus

Sh. Roshan Sankaria & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. M.K. Tiwari, Advocate,
for the petitioner.

Mr. Aditya Sharda, AAG, Punjab.

AUGUSTINE GEORGE MASI, J.

CM-21225-CII-2018

Counter affidavit to the affidavit dated 25.09.2018 filed by the
respondents is taken on record, subject to all just exceptions.

Application stands disposed of.

COC-650-2017

This contempt petition has been filed alleging non-compliance
of the order dated 08.04.2015 (Annexure P-2) passed by this Court in CWP
No.2858 of 2013, whereby, the writ petition of the petitioner was allowed
quashing the order dated 10.07.2012 and the consequential benefits were
ordered to be released to the petitioner.

2. The issue involved in the writ petition was that the petitioner
had passed her Ph.D. in Sanskrit and also possesses the other qualifications
requisite for appointment to the post of Lecturer except for having passed

National Eligibility Test (NET). The Court, on deliberating at this aspect, proceeded to quash the order dated 10.07.2012, which had denied the petitioner the benefit of grade of the Lecturer only on the ground of non-clearance of National Eligibility Test (NET) relying upon the judgment passed by this Court in CWP No.4946 of 1989, titled as 'Dev Raj Kashyap & others Vs. The State of Punjab & others', decided on 28.09.2011.

3. Upon notice having been issued to the respondents in the present contempt petition, an affidavit has been filed by the respondents, according to which, the petitioner has been granted the Lecturer grade vide order dated 09.08.2017 and the consequential benefits have also been released to her.

4. Counsel for the petitioner asserts that the petitioner would be entitled to the grant of three advance increments on account of she holding Ph.D. qualification as the other Lecturers are entitled to and it would, therefore, fall within the term 'consequential benefits'.

5. On the other hand, in compliance with the order passed by this Court on 13.08.2018, respondents have proceeded to pass an order dated 20.09.2018, whereby, petitioner's claim for grant of three advance increments on account of having Ph.D. qualification has been rejected.

6. Counsel for the petitioner asserts that the rejection of the claim of the petitioner with regard to grant of three advance increments on account of having Ph.D. qualification is not sustainable. He further states that the interest has also not been paid to the petitioner. He, therefore, asserts that the order passed by this Court, contempt of which is alleged, has

not been fully complied with by the respondents. In support of his contentions, he places reliance upon the order dated 23.08.2017 passed by the Hon'ble Supreme Court in **Contempt Petition (C) Nos.39-40 of 2016 in CA Nos.6691-6692 of 2015**, titled as '**Gurdas Singh & another Vs. Sarvesh Kaushal & others**'. Copy of the order of Civil Appeals, in which, contempts were preferred has also been produced. He, on the basis of these orders, contends that the petitioner would be entitled to three advance increments for having possessed the qualification of Ph.D. Reliance has also been placed upon the order of this Court in **Court on its own Motion Vs. Rohin Kumar @ Rohin Aggarwal**, 2014 (2) Law Herald (P&H) 1500, wherein, this Court had held that the undertakings given in Court cannot be permitted to be breached, which would lead to erosion in the majesty of law, which Courts cannot afford and therefore, such contemnors should be punished.

7. On the other hand, learned counsel for the respondents submits that the entitlement of three advance increments on the basis of Ph.D. qualification was never an issue in the writ petition, which was preferred by the petitioner and limited claim of the petitioner was for grant of grade of the Lecturer. His contention is that the grade has been granted to the petitioner and advance increments for having obtained Ph.D. qualification is an additional benefit and not an essential part of pay-scale. It is, therefore, contended that in the order dated 23.08.2017 passed by the Hon'ble Supreme Court in Contempt Petition (C) Nos.39-40 of 2016 in CA Nos.6691-6692 of 2015, *Gurdas Singh & another's* case (supra), prayer was

limited to the extent of grant of grade which benefit has been granted to the petitioner. It is, thus, asserted that the orders passed by this Court has been duly complied with.

8. I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the records of the case.

9. This Court while allowing the writ petition had only adjudicated upon the grade of the Lecturer and the eligibility of the petitioner for the said grade. This Court had said nothing with regard to the grant of advance increments. The said claim, on directions issued by this Court, has been considered and rejected vide order dated 20.09.2018 passed by the Assistant Director (Establishment).

10. In the order dated 23.08.2017 passed by the Hon'ble Supreme Court in Contempt Petition (C) Nos.39-40 of 2016 in CA Nos.6691-6692 of 2015, *Gurdas Singh & another's* case (supra), on which reliance has been placed by the counsel for the petitioner, the Court had proceeded to pass such an order keeping in view the peculiar facts and circumstances of the said case. As regards the order passed by this Court in *Court on its own Motion Vs. Rohin Kumar @ Rohin Aggarwal's* case (supra), the observations of this Court cannot be disputed but such a position does not exist in the present case, where there has been no undertaking given on the parts of the respondents with regard to the grant of three advance increments to the petitioner for possessing Ph.D. qualification.

11. In the considered view of this Court, the order passed by this Court has been duly complied with and therefore, the present contempt petition stands disposed of as infructuous.
12. Liberty is, however, granted to the petitioner to avail of her remedy in accordance with law with regard to her claim for grant of interest on delayed payment, if any and entitlement for grant of three advance increments on account of possessing Ph.D. qualification.
13. Rule issued to the respondents stands discharged.

October 04, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No