

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

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COCF No.753 of 2017

Date of Decision: September 12th, 2018

Komal Saini

...Petitioner

Versus

Sh. K.K. Jindal, IAS and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Dr. Surya Parkash, Advocate
for the petitioner.

Mr. Ashish Rawal, Advocate
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court by asserting that the respondents have violated the order dated 07.03.2014 (Annexure P-1) passed by this Court in CWP No.11546-CAT of 2008 and other connected cases, where in para 27, it was held as follows:-

“27. The above discussion lead us to the following conclusions :-

- (i) The respondents are entitled to the scale and status allowed to them vide letter dated 8.2.1989.*
- ii) The circular dated 28.2.2002 (Annexure P-8) issued by the petitioners clubbing the initial, senior scale and selection grade allowed to the TGT vide letter dated 8.2.1989 into one scale of 5000-8000 was discriminatory and against all the principles of equality, equity, fair play, ethics and natural justice.*
- (iii) The letter dated 8.5.2006 (Annexure P-17) issued by the petitioners withdrawing the letter dated 8.2.1989 shall be implemented prospectively for those employees who have entered the service on or after the issuance of this letter and the petitioners, who were already in service, shall continue to be governed by the terms as mentioned in the letter dated 8.2.1989.”*

Counsel for the petitioner contends that since these directions

are general in nature and had to be made applicable for all the employees, who are similarly situated as the respondents therein, petitioners are entitled to the same benefit. Reference has also been made to the Division Bench judgment of this Court in *CWP No.4382 of 2002* titled as *Satbir Singh Versus State of Haryana*, decided on 21.03.2002, where this Court in para 19 had held as follows:-

19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice:-

- (i) Wherever the rights of the parties have been settled by a judgment of the court, the State has taken all remedies available to it in law against that judgment even upto the highest court of the land and the judgments has attained finality, then the State must accepted the judgment and implement it in its true spirit and command. There is implicit obligation on the part of the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.*
- (ii) The State Government shall as expeditiously as possible in any case not later than four months react and respond to a legal notice/representation served upon it by any of its employees in redressal o his grievance/grant of relief, which has been granted to his co-employees similarly situated, in furtherance to the judgment of the Court. Unless, for reasons to be indicated in the reply, the State feels compelled to deny such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the orders of the Court.*
- (iii) In the event such an employee is compelled to approach the court of law, whereupon the court*

awards interest and/or costs while allowing such a petition, then the expenditure incurred by the State including the costs/interest paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the Government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance.”

3. He, thus, contends that the respondents having not granted the same benefit, which the petitioner would be entitled to in the light of the judgment passed by this Court in CWP No.11546-CAT of 2008, are in contempt of order passed by this Court.

4. This contention of learned counsel for the petitioner cannot be accepted as there is no positive direction as far as the determination of the rights of the petitioner are concerned. Bald assertion on the part of the petitioner that she is similarly situated as respondents in CWP No.11546-CAT of 2008 would not be sufficient to come to a conclusion that the respondents are in contempt of the order passed by this Court. The jurisdiction of contempt would be exercisable by this Court, where there is a specific order passed by this Court, on which adjudication has taken place with regard to the rights of the respective parties and the rights stand established. Here a right has not yet been established of the petitioner of the contempt petition and the forum for the said purpose is the Central Administrative Tribunal, which also has a jurisdiction of contempt.

5. In view of the above, this Court is not inclined to exercise its jurisdiction under the Contempt of Courts Act.

The contempt petition stands dismissed.

7. Petitioner may avail of the alternative remedy
in accordance with law.

September 12th, 2018
Puneet

(AUGUSTINE GEORGE MASI H)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No