

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCN No. 2241 of 2017

Date of Decision: 23.07.2019

Roshal Lal Chanana

.....Petitioner

Versus

Krishan Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Satya Pal Jain, Senior Advocate with
Ms. Bhavana Datta, Advocate
for the petitioner.

Mr. Aditya Sharda, AAG Punjab.

AVNEESH JHINGAN, J.(oral)

In pursuance of order dated 28.3.2019, learned counsel for the petitioner has produced the judgment and decree passed by the First Appellate Court, the same is taken on record. Copy given to learned counsel for the State.

This contempt petition has been filed pleading wilful disobedience of order dated 12.12.2016 passed in RSA No. 1652 of 1991.

The relevant portion of the order is reproduced below:

*"7. State of Punjab initiated disciplinary proceedings in the year 1964 and proceeded to appoint Inquiring officer and matter reached up to the stage of receipt of reply to the show cause notice. Thereafter, the State of Punjab/disciplinary authority failed to pass final order. Till date disciplinary authority has not passed the final order. Apparently for the reasons that RSS organization is not one of the banned organization. In fact Supreme Court in the case titled as **V.S. Menon versus Union of India** reported in 1963 AIR 1160 held that participation in a political party does not amount to misconduct.*

8. In view of these facts and circumstances, for no fault of the appellant-Roshal Lal denial of back wages is arbitrary and

illegal. He is entitled for back wages for the intervening period. Thus, the appeal filed by Roshan Lal is allowed while modifying the appellate court order dated 18.03.1991. The State of Punjab is directed to verify whether appellant-Roshan Lal was gainfully employed elsewhere as recorded by the appellate court for the entire intervening period or not. Further for non-working period the appellant-Roshan Lal be paid back wages and disburse the same along with interest @ 6% per annum within a period of 6 months from today.

The First Appellate Court's order was modified in the second appeal. The relevant portion of the First Appellate Judgment and decree is reproduced below:

"13. In the result a decree is passed in favour of the plaintiff-appellant to the effect that the appellant continues to be in the service of Punjab State as J.B.T. Teacher with all benefits admissible to him from time to time. It is further made clear that the appellant is not entitled to any back wages and moreover the appellant who is present before this court also pointed out that he is in service in another department. It is also made clear that department would be at liberty to pass any fresh order in accordance with law and service rules. No orders as to the costs. Decree sheet be prepared and file be consigned."

Reply has been filed by the respondents by way of affidavit of Ram Pal Singh, District Education Officer, Jalandhar. Along with reply, an order dated 27.12.2017 has been annexed.

Learned State counsel submits that the authority held that only from 1.1.1973 to 6.12.1977 the petitioner was not gainfully employed and payment of back wages for the said period has been paid.

Learned Senior counsel for the petitioner states that entire benefits arising from the First Appellate Judgment and Decree and as modified in the RSA has not been given. He seeks liberty to raise the said grievance by availing remedy available in accordance with law including by way of filing of an execution.

In view of above facts, the contempt petition is disposed of as infructuous with liberty as prayed for.

Rule issued against the respondents is hereby discharged.

(AVNEESH JHINGAN)
JUDGE

23.07.2019
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Whether speaking/reasoned	Yes
Whether Reportable:	No