

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

COCP No.988 of 2008

Date of Decision: 05.12.2019

Dharam Pal @ Dharam Pal Kathia and others

Petitioners

Versus

Karam Avtar Singh, Secretary to Government, Punjab, PWD and
others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tahaf Bains, Advocate for
Ms. Jagdeep Bains, Advocate
for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

The petitioners filed a writ petition challenging the seniority list. The grievance raised was that employees shown senior to them in the seniority list were appointed by the Secretary of the Subordinate Services Selection Board at the time when the Board had become defunct. The writ petition was allowed in terms of decision dated 05.07.2006 of this Court in **Pritpal Singh and others Vs. State of Punjab and others** reported as 2006(&) S.C.T.915. The seniority list was quashed. It was ordered that *ad hoc* services of the petitioners shall be counted towards fixing the seniority and

consequential benefits shall follow.

The contempt petition was filed pleading that needful has not been done.

Replies/affidavits were filed by the respondents during the pendency of the contempt petition. The seniority list was prepared afresh and annexed with the affidavit dated 01.09.2008. After finalizing the seniority list, notional selection grade was granted to the petitioners w.e.f. 01.01.1978.

Learned counsel for the petitioners raises grievance that arrears of monetary benefits arising from the grant of selection grade pay scale have not been granted.

Learned State counsel places reliance on the pleadings in the reply dated 19.01.2009 appended at Annexure R-4, to state that case of the petitioner was allowed in terms **Pritpal Singh's case** (supra) and in the said case, arrears were neither claimed nor paid.

There is no dispute raised by the parties to the fact that in pursuance to the decision of this Court, fresh seniority list was prepared. The seniority of the petitioners were fixed accordingly and consequences following therefrom, i.e. selection grade w.e.f. 01.01.1978 was granted albeit notionally.

The only grievance raised is that monetary benefits have not been paid.

Order dated 29.08.2008 was passed whereby the selection grade was granted notionally, the order was not challenged

by the petitioner.

There is no rebuttal to the pleading of the respondents that in case of Pritpal Singh (supra) there was neither any claim nor payment of arrears.

There is another aspect of the matter that it is not every case that contempt is to be initiated, more so, where there is possibility of more than one interpretation or a debatable issue is involved.

Supreme Court in case of ***Sushila Raje Holkar Vs. Anil Kak (Retd.) [2008(7) SCALE 484]***, the Apex Court held as under:-

“It is a well settled principle of law that if two interpretations are possible of the order which is ambiguous, a contempt proceeding would not be maintainable”

In **Sudhir Vasudeva, Chairman and MD. ONGC and others Versus M. George Ravishekar and others**, it was held as under :

“17. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. Courts must not, therefore, travel beyond the four corners of the

*order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Decided issues cannot be reopened; nor the plea of equities can be considered. Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the bar, namely, **Jhareswar Prasad Paul and Another v. TarakNathGanguly and Others**, [2002 (5) SCC 352]. **V.M.Manohar Prasad v. N. RatnamRaju and Another**, [2004 (13) SCC 610]. **Bihar Finance Service House Construction Cooperative Society Ltd. v GautamGoswami and others** [2008(3) R.C.R.(Civil) 177 : 2008 (5) SCC 339]. and **Union of India and Others v. SubedarDevassy PV** [2006(1) R.C.R.(Criminal) 702 : 2006(1) R.C.R.(Civil) 446 : 2006 (1) SCC 613]”.*

(emphasis supplied)

In view of above, no case is made of wilful disobedience and the contempt petition is dismissed.

Needless to say that the petitioners would be at liberty to avail remedies in accordance with law for redressal of surviving grievance, if any.

[AVNEESH JHINGAN]
JUDGE

December 05, 2019

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |