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

**COCP No.3243 of 2016 (O&M)
Date of Decision: 10.12.2019**

Harinder Pal Singh

Petitioner

Versus

Jatinder Bir Singh, Chairman-cum-Managing Director, Punjab and
Sind Bank, New Delhi and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. H.C. Arora, Advocate
for the petitioner.

Mr. I.P. Singh, Advocate
for the respondent.

AVNEESH JHINGAN, J (Oral):

The petitioner was working as Senior Manager with Punjab and Sind Bank and retired on 31.07.2018. On 13.06.2013, punishment of lower stage pay scale for one year without cumulative effect was imposed on him. Aggrieved of the order, appeal was filed, the same was rejected on 21.10.2013. Thereafter, CWP No.2006 of 2014 was filed, the petition was allowed on 12.01.2016, the impugned orders were set aside. The petitioner was held entitled to consequential benefits on account of setting aside of the impugned orders.

The relevant portion of the order is reproduced as under:-

“Accordingly, this petition is allowed. Impugned orders dated 13.6.2013 (Annexure P-7) and 21.10.2013 (Annexure P-9) are set aside. Petitioner will be entitled to receive consequential benefits on account of setting aside of the impugned orders.”

The petitioner could not be considered for promotion in the year 2014 and 2015, as a result of the punishment order passed in June 2013. The grievance raised is that even after setting aside of the said order, he was considered for promotion in the year 2016, 2017 and 2018 but not for the year 2014 and 2015.

Learned counsel for the respondents submits that criteria of promotion has not changed over the years.

The criteria is reproduced below:

“The weightage of performance, Group Discussion, Potential (Interview) & Job Responsibility for promotion to SMGS-IV shall be as under:-

<i>Performance</i>	<i>:</i>	<i>40 marks</i>
<i>Group Discussion</i>	<i>:</i>	<i>10 marks</i>
<i>Potential (Interview)</i>	<i>:</i>	<i>30 marks</i>
<i>Job Responsibility</i>	<i>:</i>	<i>20 Marks”</i>

Learned counsel for the respondents contends that promotion was on the basis of merit-cum-seniority and the petitioner was considered for promotion in the year 2016, 2017 and 2018 but as per the results declared on 02.09.2016, 21.07.2017 and 14.05.2018 respectively, he failed to qualify. He further points out

that even during the consideration in the year 2011-12, he failed to qualify for promotion.

Learned counsel for the petitioner argues that petitioner could not make through the promotion for the year 2016, 2017 and 2018 as there was bias against him due to the litigation and he was not given appropriate marks.

It would be appropriate to mention that results of promotion were never challenged by the petitioner. There is no pleading or evidence on record to establish any bias. It is pertinent to note here that petitioner did not qualify for promotion when considered in 2010-11 when there was no litigation pending.

Learned counsel for the petitioner further argues that respondents have wilfully disobeyed judgment of this Court, as the petitioner was not specifically considered for promotion due to him for the year 2014 and 2015. He fortifies his argument by submitting that a prejudice is caused to the petitioner as a result of the pending litigation against the punishment order.

There is no dispute on the fact that after the decision of the writ petition, the petitioner was considered thrice for promotion but he failed to make through. The matter would have been different, had he succeeded even once. At that stage, the question would have arisen as to whether the promotion is to be granted retrospectively, i.e., the date he became entitled to after succeeding in the litigation against the punishment order or not.

There is another aspect of the matter, the contempt

proceedings are to be initiated in case there is wilful disobedience of positive directions of this Court.

The Supreme Court in **Jhareswar Prasad Paul Vs. Tarak Nath Ganguly 2002(5) SCC 352** held as under:-

“At the cost of repetition be it stated here that the court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes leveled against the courts exercising contempt of court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute" in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of courts.”

(emphasis supplied)

Supreme Court in Sudhir Vasudeva, Chairman and MD. ONGC and others Versus M. George Ravishekaran and others, 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.

(emphasis supplied)

The issue raised in present petition is not that there is violation of positive directions of this Court for giving consequential benefits. Rather the challenge is that compliance of judgment is not done in a particular manner. There was no specific direction that promotions done for the year 2014-15 would be undone and thereafter the matter would be considered afresh.

The issue raised cannot be considered in proceeding for wilful disobedience of judgment of this Court.

Keeping in view the above discussion, no interference is called for, the petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

December 10, 2019

pankaj baweja

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