

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

**COCP No.3491 of 2014(O&M) in**

**CWP No.13203 of 2013**

**Date of Decision:-22.01.2019**

**Ajay Maluja.**

.....Petitioner.

Versus

**Deepak Gupta, Chairman, UPSC & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH**

Present:- Mr. S.S. Narula, Advocate for the Petitioners.

Mr. Onkar Singh Batalvi, Advocate for respondent no.1-UPSC.

Mr. Brijeshwar Singh Kanwar, Senior Standing Counsel  
for respondent no.2-Union of India.

Mrs. Anu Chatrath Kapoor, Additional Advocate General,  
Punjab for respondent no.3-State of Punjab.

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**JASWANT SINGH, J.**

1. The present contempt petition has been filed by the petitioner in CWP No. 13203 of 2013 and for the violation of the directions issued vide Order 13.09.2013 in the said Civil Writ Petition.

2. That the aforestated CWP 13203 of 2013 is being filed by the petitioner, a promotee Deputy Superintendent of Police who has challenged the seniority list whereby the Direct Recruits though having lesser length of service than the petitioner have been shown senior to him. As per the

petitioner, his date of appointment as DSP is 12.05.1993 and the date from which the Respondents are counting the service in the available cadre post is 04.05.1994 whereas the date of joining as well as the date from which the service of the Direct Recruits is to be counted is 08.08.1994. The petitioner thus claims that impugned seniority has been made in violation of Rule 8 of the Punjab Civil Service (General & Common Conditions of Service) Rules, 1994.

3. During the course of proceedings in CWP No. 13203 of 2013, this Hon'ble Court passed the interim directions on 13.09.2013 in the presence of the parties including the Counsel for State of Punjab representing the Respondent No. 1 to 3, the Counsel for Respondent No. 4/ Union Public Service Commission and the Respondent No. 5 Union of India through the Joint Secretary Police, Ministry of Home Affairs. The operative part of the order dated 13.09.2013 (Annexure P-1) for ready reference is reproduced as under:-

“....x x x x

***The Court is now confronted with a situation where because of the order of June 2013, the entire process has come to a standstill and as observed in the foregoing part of the order, this is not in the interest of the administration and governance and the people at large. The interest of the petitioner can be safeguarded and in the eventuality of being successful, he can be adequately compensated by appropriate orders and, therefore, this Court is of the opinion that order dated 13.6.2013 needs to be modified to the extent that Union Public Service Commission shall conclude the process pertaining to all the pending lists from the year 2010 onwards.***

***Another reason which weighs with the Court to modify***

***the order dated 13.6.2013 is that prior to this, in June 2013, a similar prayer had been made by one of the petitioners in C.M.No.8832 of 2013 in CWP No.3940 of 2013 which was declined and the matter was then taken to the Hon'ble Supreme Court which also declined to interfere. It was thereafter that this instant petition was filed by another person by imposing him as a petitioner and the order of status quo passed. The previous order of the Division Bench and the order of the Hon'ble Supreme Court was evidently not in the notice of the Court which passed the order dated 13.6.2013.***

***The petitioner shall also be granted a consideration provisionally. His result shall be kept in a sealed cover and not disclosed except to the Court upon such a requisition being made. Insofar as the outcome of the process of promotion is concerned, needless to say that this shall be subject to the decision of the writ petition.***

***The Union Public Service is directed to conclude the process within a period of four weeks positively...”***

The said order dated 13.09.2013 is stated to be communicated by the Assistant Registrar (Writ) of this Hon'ble Court to the Respondents on 18.09.2013.

4. As per the petitioner, vide letter dated 18.09.2014 (Annexure P-3) issued by Home-I Branch, Department of Home Affairs and Justice, Government of Punjab sent the name of the eligible Officers of the State Police Services for consideration for the Select List-2013 under Regulation 5 of the Indian Police Service (Appointment by Promotion) Regulations 1955. In the said List the names of 15 eligible officers (Direct Recruits) in State Police Service were forwarded with a request to convene the meeting of the Selection Committee to prepare the Select List for the year 2013 at

***the earliest.***

The Union Public Service Commission informed the Chief Secretary, Government of Punjab vide letter dated 08.12.2014 (Annexure P-4) regarding the meeting of the Selection Committee for promotion of State Police Services Officers for appointment to IPS to Punjab Cadre for Selection List-2013 schedule to be held on 12.12.2014. The petitioner in this regard claims to have given a communication dated 11.12.2014 along with the copy of the order dated 13.09.2013 with the request to consider him for promotion to the post of IPS in view of the directions dated 13.09.2013 passed by this Court.

5. Upon listing, the present contempt petition by order dated 18.12.2014 was ordered to be listed along with main CWP No. 13203 of 2013 and thereafter reply by way of affidavit of Respondent No. 2 M. Gopal Reddy, Joint Secretary, Police 1 Division of Ministry of Home Affairs, Government of India was filed and taken on record vide C.M. No. 2015-C-II / 2015 by order dated 27.01.2015. The stand taken by the Respondent No. 2 is that 11, 2 and 2 vacancies were determined for the year wise Select Lists of the years 2010, 2011 and 2012 respectively for appointment by promotion of State Police Service Officers of Punjab to the Punjab Cadre of IPS. The Select Committee meeting was held on 06.06.2013.

As per Respondent No. 2, pursuant to the directions issued on 13.06.2013 and modified on 13.09.2013, the meeting of the Selection Committee was again held on 24.10.2013 in continuation of meeting dated 06.06.2013.

6. The Respondent No. 2 has further stated that in compliance with the directions dated 13.09.2013, the name of the petitioner was considered for promotion to the IPS. Upon consideration of the petitioner in

the meeting dated 24.10.2013, it was decided to keep the decision of Selection Committee consideration in Sealed Cover not to be disclosed except upon requisition or as directed by this Hon'ble Court in terms of the Order dated 13.09.2013.

7. After scrutinizing the arguments of counsel for the parties and documents on record; and the stand taken by the Respondent No. 2 / Joint Secretary, Police 1 Division of Ministry of Home Affairs, Government of India, which has not been disputed by the Petitioner, it is apparent that on 13.09.2013, this Court gave directions to grant ***a consideration*** to the petitioner provisionally. The result of the petitioner was to be kept in a sealed cover and not disclosed except to the Court upon such a requisition being made and the outcome of the sealed cover was subject to the outcome of the CWP 13203 of 2013. The Respondent No. 2 in the affidavit dated 20.01.2015 has demonstrated the compliance of the directions issued in the Order dated 13.09.2013 in the CWP 13203 of 2013. There is nothing on record or in the order dated 13.09.2013 that the petitioner was to be considered for the Select Panel 2013 again after having been considered in the list of State Police Service Officer for year wise Panel consideration for years 2010, 2011, 2012. The petitioner has not filed any objections to the compliance affidavit dated 20.01.2015.

8. Thus there is no willful disobedience of any directions or orders by not considering the petitioner again for the Select Panel 2013 once he has already been considered on 24.10.2013 alongwith the Select panel for the years 2010, 2011 and 2012 in compliance with the directions issued on 13.09.2013 and his case kept in the sealed cover.

And Ors.’ AIR 2004 SC 105, the Hon’ble Supreme Court examined the provision of Section 2(b) of the Contempt of Courts Act, 1971 that defines the term civil contempt and held that the term ‘Willful’ under Section 2(b) means an act or omission which is done voluntarily and intentionally and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or to disregard the law.

In the case in hand, there is no willful disobedience of the Respondents to the directions issued by this Court in the Order dated 13.09.2013 issued in CWP 13203 of 2013 rather the directions have been complied with and the case of the petitioner is kept in sealed covers in terms of said directions. The COCP in view of the aforestated observations is liable to be dismissed.

9. The judgment in the main case CWP No. 13203 of 2013 has been pronounced on 02.11.2018, wherein the CWP has been allowed in view of the detailed observations and directions given therein. If there is a grievance of non-compliance with the terms of the directions passed in the main order dated 02.11.2018, a remedy is available to the aggrieved person to approach the Execution Court / Contempt Court for appropriate redressal.

10. In view of the above, the present Contempt petition is hereby dismissed.

( JASWANT SINGH )  
JUDGE

January 22nd, 2019  
Vinay

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |