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

**COCP No.3325 of 2019
Date of Decision: 19.11.2019**

Ishwar Singh

Petitioner

Versus

M.L. Kaushik, IAS, Director Secondary Education, Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajender Singh Malik, Advocate
for the petitioner.

Mr. Sandeep S. Mann, Sr. D.A.G., Haryana.

AVNEESH JHINGAN, J (Oral):

The petitioner was appointed as a Sweeper-cum-Chowkidar in the year 1985. He was regularized *ante*-dated from 27.01.1999. He preferred CWP No.27666 of 2018 for release of arrears of benefits from date of regularization. The writ petition was disposed of on 30.10.2018 directing the respondents to pass speaking order on legal notice dated 08.11.2017. The needful was required to be done within four months from the date of receipt of certified copy of the order.

The petitioner filed this contempt petition under Section 10 and 12 of the Contempt of Courts Act, 1971 pleading that needful has not been done by the respondents.

Short reply by way of affidavit of Dr. Balkar Singh, IAS,

Director Secondary Education, Haryana filed today in the Court, is taken on record. Copy handed over to learned counsel for the petitioner.

Learned counsel for the respondent submits that though the order dated 03.07.2019 was passed by respondent but the representation could not be decided, as the Special Leave Petition (SLP) preferred by the State on the similar issue was pending. He fairly submits that SLP is dismissed. He further argues that similarly situated employees had filed CWP No.16086 of 2019, same was disposed of on 19.07.2019.

It would be relevant to quote the said judgment:-

“Accordingly, the writ petitions are disposed of with direction to the Competent Committee headed by District Education Officers in all the Districts, to consider the cases of all the employees/petitioners including the persons, whose writ petitions are pending or have not approached this Court so far, but represented or received representation and decide the same in terms of the policy dated 11.11.2003, by maintaining seniority as well as observations hereinabove, within a period of five months from the date of receipt of certified copy of this order.

It is also a matter of record that the Department has maintained seniority of the employees working on contractual/part time in various districts, thus, shall consider the representations strictly as per seniority list as well as policy, much less, in accordance with law.

The Committee shall be at liberty to afford an opportunity of hearing, in case of any query or

clarification sought from the concerned employee.

It is also made clear that in case, the reasons sought in contemplated action, are not satisfactory, this Court may not be constrained to impose exemplary costs on the members of the Committee.

The affidavit also contains list of pending Court cases (Annexure R-1) regarding regularization of Class IV part time employees.

On going through the list, it is deciphered that many writ petitions spanning from 2012, 2013, 2014, 2017, 2018 and 2019 are pending adjudication.

Keeping in view the undertaking expressed in the affidavit as well as letter, I direct the Registry to list all the writ petitions, as mentioned in the affidavit before this Bench, so that, the same can be disposed of, in terms of affidavit or order being passed by this Court, after informing the counsel representing the respective parties.”

Learned State counsel contends that in pursuance to the said directions, show cause notice dated 07.11.2019 has been issued to the petitioner for withdrawal of benefit of *ante* dated regularization w.e.f. 27.01.1999. He submits that it is for this reason, the delay occurred in passing the speaking order.

Learned counsel for the petitioner submits that claim of the petitioner has not been decided till date and respondent is duty bound to pass the speaking order to comply with the directions of this Court.

Keeping in view of the facts submitted by learned State counsel and considering the fact that *ante* dated regularization on

the basis of which petitioner is seeking benefit, itself is a subject matter of withdrawal proceedings, no case is made out for interference in the contempt petition.

The contempt petition is dismissed.

However, petitioner would be at liberty to avail remedies in accordance with law, in case cause of action arises with regard to on-going proceedings.

[AVNEESH JHINGAN]
JUDGE

November 19, 2019

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