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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT. CAS. (C) 258/2020**

SUBHASH CHAND

..... Petitioner

Through: Mr. Ankur Chhibber, Advocate

Versus

DR. AJAY KUMAR & ORS.

.....Respondents

Through: Mr. Vinod Diwakar, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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24.06.2020

CONT. CAS. (C) 258/2020

1. The hearing was conducted through video conferencing.
2. Petitioner seeks initiation of proceedings against the respondents under Section 11 and 12 of the Contempt of Courts Act, 1971 for non-compliance of judgment dated 11.03.2020 in W.P. (C) No. 634/2020.
3. Petitioner is serving at the rank of Corporal with the Indian Air Force and has been denied discharge from service. Petitioner had applied for the post of Assistant Professor, (College Cadre) (Mathematics), Department of Education, State of Haryana and secured the appointment subject to being discharged from service by the respondent.

4. Since the respondent declined to discharge the petitioner from service, petitioner filed the subject Writ Petition being W.P.(C) No. 634/2020. Said writ petition was allowed by judgment dated 11.03.2020 and a writ of mandamus was issued to the respondents to forthwith discharge the petitioner from service, for joining the post of Assistant Professor (College Cadre) (Mathematics) in the state of Haryana.

5. Contention of the petitioner is that despite the directions issued to the respondents to forthwith discharge the petitioner, he has not been discharged. It is submitted that because of non discharge of the petitioner he would lose the opportunity of joining the said post of Assistant Professor, (College Cadre) (Mathematics) in the State of Haryana.

6. Notice in this petition was issued for 21.05.2020, when learned counsel for the respondent sought time to take instructions.

7. Learned counsel for the petitioner relies upon the judgment of this Court dated 09.10.2014 in W.P(C) No.5073/2013 titled *CPL.MD.SA Ansari vs. Union of India &Ors* and judgment dated 29.09.2014 in W.P(C) No.5112/2013 titled *CPL Saurabh Fauzdar vs. Union of India &Ors and other connected matters* and also the order of the Supreme Court dated 25.02.2013 in Special Leave Petition (Civil) CC No.3144/2013 titled *Union of India &Ors. vs. Sandeep Kumar* to contend that in similar circumstances, respondents have

been issuing conditional discharge order subject to the outcome of the Special Leave Petition.

8. By order dated 29.05.2020, respondents were directed to consider the request of the petitioner to issue a conditional discharge order subject to the outcome of the Special Leave Petition.

9. Learned counsel for the respondents contended that the competent authority has not been able to accede to the request of the petitioner to issue a conditional discharge order. He further submits that a Special Leave Petition has been filed impugning the judgment dated 11.03.2020.

10. Learned counsel for the petitioner relies on a judgment of the Supreme Court in *Dr. H Puninder Singh versus KK Sethi* : (1998) 8 SCC 640 to contend that merely because an appeal is filed would be no ground not to proceed on merits in a contempt petition and it is the responsibility of the respondents to ensure that there is an order of stay of the judgment, failing which, the judgment has to be complied with.

11. Reliance is also placed on a judgment of a Division Bench of Gujarat High Court in *Girishchandra R. Bhatt vs. Dineshbhai N. Sanghavi, Principal & Others*: 1996 (1) G.L.H.523 = Manu/GJ/0322/1995 to contend that when there is no stay granted by the Appellate Court, the order has to be complied with.

12. Keeping in view of the facts and circumstances of the case and also the fact that the petitioner has secured an appointment as Assistant Professor (College Cadre) (Mathematics) with the State of Haryana, which would amount to a substantial career progression and if he is not discharged he would lose the opportunity, respondents are directed to pass a conditional discharge order subject to the outcome of the Special Leave Petition within a period of 10 days from today.

13. List for further directions on 09.07.2020.

14. Copy of the order be uploaded on the High Court website and be also forwarded to the learned counsels through email.

SANJEEV SACHDEVA, J

JUNE 24, 2020

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