

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) COCP-1306-2021
Date of Decision: 15.03.2022

Dr. Jogender Pal Singh and another ...Petitioners

vs.

Shri Dharam Pal, IAS and others ...Respondents

(2) COCP-1190-2021
Date of Decision: 15.03.2022

Dr. Alka Jain ...Petitioner

vs.

Shri Manoj Kumar Parida, IAS and others ...Respondents

(3) COCP-1522-2021
Date of Decision: 15.03.2022

Karamjit Singh Sahi ...Petitioner

Vs.

Sarpreet Singh Gill, IAS and another ... Respondents

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Arjun Pratap Atma Ram, Advocate,
Mr. Kamal Deep Sehra, Advocate and
Mr. Alok Mittal, Advocate for the petitioner(s).

Mr. Anil Mehta, Senior Standing Counsel with
Mr. Suman Jain, Advocate for the respondent/UT Chandigarh.

B.S. Walia, J. (Oral)

1. This order shall decide COCP-1306-2021, COCP-1190-2021
and COCP-1522-2021, as the grievance in all the cases pertains to
intentional and willful non compliance of common judgment in

CWP-20477-2020. However, with the consent of learned counsel, facts of

the case are being taken from COCP-1306-2021.

2. Prayer in the instant petition is for initiating proceedings against the respondents for intentional and willful defiance of order Annexure P/1 dated 01.03.2021, in CWP-20447-2020.

3. A perusal of order Annexure P/1 dated 01.03.2021 reveals that CWP-20447-2020, was disposed of by holding the action of the respondents in retiring the petitioners at the age of 58 years as illegal and the petitioners were held entitled to be taken back in service besides release of consequential benefits within two months from the date of receipt of certified copy of the order.

4. Learned counsel contends that the instant petition was filed on account of failure of the respondents to do the needful.

5. On 23.08.2021, the instant petition was adjourned sine die on learned counsel for the parties informing that Hon'ble the Supreme Court while issuing notice in SLP No.12454-12455 of 2021 against the decision of Hon'ble the Division Bench in CWP-20447-2020 had stayed the contempt proceedings. However, on the respondents withdrawing the aforementioned SLP on 15.12.2021, the contempt petition was revived on 11.02.2022 on filing of application for the same and the respondents were asked to submit compliance report along with reply indicating the steps taken after withdrawal of the SLP as also the reasons for non-compliance with order's of Hon'ble the Division Bench dated 01.03.2021, in CWP-20477-2020. On 22.02.2022, while noticing that neither compliance report had been filed nor reply indicating the reasons for non-compliance

SLP, the matter was adjourned to 03.03.2022, to enable filing of compliance report while directing that in case of failure to do the same, the respondents were to be present in Court.

6. On 03.03.2022, learned Sr. Standing Counsel, UT Chandigarh, produced copy of order dated 02.03.2022, allowing the petitioners to rejoin duty with immediate effect in compliance of order dated 01.03.2021, in CWP-20477-2020. However, while noticing the submission of learned counsel for the petitioners that the action of non-compliance sought to be justified on account of approval being sought from the Ministry of Home Affairs was untenable in view of the decision in COCP-721-1994, in case titled as Court on its Own Motion vs. N.S. Kanwar, 1995 (1) RCR (Criminal) 201, besides, the alleged compliance was not in terms of order of Hon'ble the Division Bench dated 01.03.2021, in CWP-20477-2020, the case was adjourned to 15.03.2022, while directing the respondent to submit compliance report qua claim with regard to taking back the petitioner in service w.e.f. the date of retirement as also for release of consequential benefits.

7. Learned Sr. Standing Counsel, UT Chandigarh has referred to order dated 10.03.2022, withdrawing orders of retirement dated 26.08.2020 of the petitioners and also mentioning that intervening period between date of retirement till 04.03.2022 i.e. date of re-joining would be treated as duty period for all intents and purposes and that the concerned employees would be entitled to all consequential benefits for the said period. Learned Counsel for the petitioners contends that due to failure of the respondents to comply with orders dated 01.03.2021, in CWP-20477-2020, till passing of order dated 10.03.2022, petitioner No.1 who was otherwise entitled to promotion w.e.f. 10.10.2021, in terms of the AICTE

Regulations, has not been granted the said benefit. Learned counsel further contends that as a consequence thereof, petitioner No. 1 has also not got salary as per entitlement, which would have to be calculated after grant of promotion.

8. Learned Counsel contends that petitioner No. 1 had submitted representation Annexure A/3 dated 11.03.2022, to respondent No.2 i.e. Secretary Technical Education and in view of the position noted above, the petitioner does not press the contempt petition and would be satisfied if the same is disposed of as such while directing respondent No. 2 to consider and decide representation Annexure A/1 dated 11.03.2022, in a time bound manner.

9. Learned Sr. Standing Counsel states that needful would be done and decision would be taken on representation dated 11.03.2022, submitted by petitioner No. 1, within such time as is granted by this Court.

10. I have considered the submissions of learned counsel. Action taken report dated 21.02.2022, mentions the steps taken by the respondents after the withdrawal of the SLP, of there being no intention of disrespect in any manner to the orders of Hon'ble the Division Bench and the delay in compliance being solely on account of orders for release of benefits in compliance of judgment dated 01.03.2021, in CWP-20477-2020 awaited from the Government of India, Ministry of Home Affairs, New Delhi.

11. Admittedly orders have been passed withdrawing the order of retirement by taking the petitioners back in service from the date they were relieved. The intervening period w.e.f. date of retirement till date of rejoining i.e. 04.03.2022, has been treated as period spent on duty, the

besides learned counsel for the petitioners has also made a statement that he does not press the instant petition and the same may be disposed of as such while directing respondent No. 2 to decide representation Annexure A/3 dated 11.03.2022 in a time bound manner.

12. In the light of position noted above, while observing that in the absence of stay, compliance could not have been stalled awaiting approval, but in view of the unconditional and unqualified apology, statement of learned counsel for the petitioners and taking a lenient view of the matter, the instant petition is disposed of as not calling for any action against the respondents under the Contempt of Courts Act, 1971, while directing respondent No.2-Secretary Technical Education, to adhere to the assurance held out by the learned Sr. Standing Counsel and to decide representation Annexure A/3 dated 11.03.2022, submitted by petitioner No.1, within four weeks from the date of receipt of certified copy of this order and in case petitioner No. 1 is found entitled to grant of any benefit, to release the same to him within two weeks thereafter.

13. At this stage, learned counsel for the petitioners states that the petitioners have been released some of the financial benefits after a lapse of considerable period of time and in the circumstances, the petitioners are entitled to payment of interest on the delayed payment. While taking into account the aforementioned plea, it is deemed appropriate to grant liberty to the petitioner's to submit a representation in respect of the aforesaid claim to respondent No. 2 within ten days of receipt of certified copy of the orders and in the eventuality of submission of any such representation by the petitioners, respondent No.2 shall consider and decide the same, in accordance with law, within four weeks thereafter and in case the petitioners are found entitled to payment on account of interest, the same

be released to the petitioners, within a period of two weeks thereafter.

14. Contempt petition disposed of with the aforementioned directions.

15. Rule discharged.

(B.S. Walia)
Judge

15.03.2022
rajesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No