

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCp-4195-2019

Date of Decision :04.04.2022

N.K. Kansal

...Petitioner

Versus

Devender Singh

....Respondent

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

Present : Mr. Sandeep Panwar, Advocate for the petitioner.
Mr. Pawan Kumar Longia, DAG, Haryana.

B.S. Walia, J. (Oral)

[1] Prayer in the petition under Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India is for initiating action against the respondent for intentional and willful defiance of order, Annexure P/1 dated 26.02.2018 in CWP No.4561 of 2018.

[2] A perusal of order, Annexure P/1 dated 26.02.2018 reveals that CWP No.4561 of 2018 was disposed of by directing the respondents to take conscious decision on legal notice dated 28.07.2017 by passing a speaking order in the light of judgment in CWP No.4518 of 2000 in case titled as R.K. Gupta and Ors. vs. State of Haryana and Ors. within four months from the date of receipt of certified copy of the order.

[3] Learned counsel contends that pursuant to order, Annexure P/1, dated 26.02.2018, order, Annexure P/4 dated 08.11.2018 was passed by the respondent holding the petitioner herein and the remaining petitioners of CWP No.4561 of 2018 entitled to the benefits claimed but

on failure of the respondent to release the financial benefits, in terms of order, Annexure P/4 dated 08.11.2018 to the petitioner herein, despite releasing the said benefits to other petitioners of CWP No.4561 of 2018, the instant petition was filed.

[4] Learned DAG refers to speaking order dated 20.05.2020 passed by the respondent, withdrawing order, Annexure P/4 dated 08.11.2018. Operative part of the same is reproduced as under:

“Vide No.24/02/2019-1FR/32201 dated 11.05.2020, the Finance Department Haryana has withdrawn their earlier advice given vide No. part file-II/04/26/1990-1FR/16954 dated 08/09.08.2018 on the basis of wrong interpretation of order of Hon’ble Supreme Court or of the Hon’ble High Court. Therefore, earlier order bearing same number dated 08.11.2018 issued by my predecessor in this regard is hereby withdrawn. However, if monetary benefits has been released on the basis of earlier speaking order dated 08.11.2018, then the same be not perpetuated and arrear if paid on account of above stated reasons even wrongly construing the speaking orders then the same may not be recovered but further course of action regarding revision of consequent pension etc. may be stopped.”

[5] Learned counsel for the petitioner states that in view of speaking order dated 20.05.2020, the petitioner does not press the instant petition but prays for grant of liberty to the petitioner to challenge order dated 20.05.2020 by way of appropriate proceedings in accordance with law.

learned counsel for the petitioner, the instant petition is disposed of as not calling for any action against the respondent under the Contempt of Courts Act, 1971 while granting liberty to the petitioner to challenge speaking order bearing memo No.46/67/2018-31W dated 20.05.2020 by way of appropriate proceedings in accordance with law.

[7] Rule discharged.

(B.S. Walia)
Judge

04.04.2022
'Amit'

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