



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

% **Judgment reserved on : 22 August 2024**
Judgment pronounced on : 28 August 2024

+ **CONT.CAS(C) 487/2023 & CM APPL. 43317/2024**

AJMER SINGHPetitioner

Through: Petitioner-in-person.

versus

GOVERNMENT OF NCT OF DELHI & ORS.....Respondents

Through: Mr. Anuj Aggarwal, ASC
GNCTD with Mr. Yash
Upadhyay and Mr. Siddhant
Dutt, Advocates for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

JUDGEMENT

1. The petitioner is seeking initiation of contempt proceedings against the respondents/contemnors under Article 215 of the Constitution of India for wilful disobedience and non-compliance of the order dated 31.07.2018 passed by this Court in Rev. Pet. 8/2018 in Writ Petition No. 7517/2015.

2. Having heard the petitioner, who argues his case in person, as well as learned counsel for the respondents No. 2 and 3, I find that the present contempt petition does not survive any longer, as the directions of this Court have been duly complied with.

3. Shorn of unnecessary details, the petitioner was initially appointed as Ground 'D' employee in Khalsa Girls Senior Secondary School, Chuna Mandi, Paharganj, New Delhi on 19.06.1978, which



was a government aided school and he was promoted as ‘Laboratory Assistant’ w.e.f. 08.12.1981, in the Pay Scale of Rs. 290-500, as per the recommendations of the 3rd Pay Commission. He was also given the selection grade in the scale of Rs.530-610, w.e.f. August 01, 1992, which was later revised as Rs. 1350-2200 and as Rs. 4500-7000 w.e.f. 01.01.1996 as per 5th Pay Commission.

4. It appears that the dispute arose after the Government of India introduced the ACP¹, which was made applicable to Group ‘B, ‘C’ and ‘D’ employees, prompting the petitioner to file Writ Petition No. 3408/2011. The said writ petition was disposed of *vide* order dated 09.07.2013, with the directions to the Directorate of Education to hear the petitioner and subsequently pass a speaking order, which was eventually passed on 02.12.2013, remanding the matter to the Deputy Director of Education to examine all relevant issues. The said writ petition was disposed of with the liberty to the petitioner to file a fresh petition *vide* order dated 10.04.2015.

5. Long story short, W.P. (C) 7517/2015 was filed claiming that since the petitioner was appointed in Group ‘D’, he had become entitled to 1st and 2nd ACP and he has not been granted financial benefits in accordance with 3rd MACP w.e.f. 01.09.2008 and instead wrongful recovery had been effected from him. It is admitted fact that the petitioner, who had by then compulsorily retired, was made entitled to the following reliefs *vide* order dated 27.09.2017:

“15. There is no dispute that the petitioner has since compulsory retired. That apart, the excess payment, which has been made is for a period of at least nine years, which is in excess of five years, the

¹ Assumed Career Probation



recovery is impermissible in terms of Para 18(3). It is held the recovery of an amount of Rs. 1,50,000/- approx, is illegal.

16. Insofar as the judgment of this court in the case of *General Manager and Qrs v. Prem Pal Singh and Anr (supra)* on which reliance was placed by Ms. Divan is concerned, the same would not be applicable in view of my conclusion above, that grant of Selection Grade shall not be treated as a grant of Second financial upgradation to deny the benefit of 7nd ACP in terms of clarification dated February 10, 2000 of the DoP&T.

17. In view of my discussion above, the petitioner is not entitled to the relief of Senior Scale and 2nd ACP as prayed for in the petition. As the petitioner has not been given the benefits arising from the third MACP, the amount of Rs.1,50,000/- recovered shall be adjusted against the benefits to be given under the third MACP. The respondents are further restrained from recovering/adjusting an amount of Rs.2,34,876/-. Any differential amount to be paid under 3rd ACP shall be released to the petitioner within two months, with interest @ 9% per annum. Petition is disposed of. No costs.”

6. A review petition was filed bearing CM APPL. 42563/2017, which led to the passing of following order:

“**7.** Having noted the submission of Mr. Aggarwal, the petitioner shall be entitled to parity qua those Lab Assistants who have been granted the benefit of 2nd ACP, which benefit has not been withdrawn from them. The petitioner could not have been singled out, for withdrawal of the 2nd ACP by the respondents after nine years. The challenge in the petition to the action of the respondents withdrawing the grant of 2nd ACP need to be accepted. The Review Petition filed by the petitioner is allowed and the order dated September 27, 2017 is reviewed and writ petition is allowed on the following terms:-

1. It is ordered that the respondents could not have withdrawn the benefit of 2nd ACP vide order dated April 4, 2011, as upheld vide impugned order dated June 24, 2014. The same are illegal.
2. The petitioner shall be entitled to the refund of 2,34,876/- as directed in the application being CM No. 42563/2017 along with 5% school share (if not included in the amount). Further, an amount of 75,625/- needs to be refunded to the petitioner by the respondent School.”

7. The petitioner instituted the present contempt petition with the



making a grievance that computation of financial benefits in terms of the aforesaid judgment have not been carried out and that unwarranted and illegal deductions have been made. This Court *vide* order dated 19.04.2023, initially sought to facilitate a reconciliation between the petitioner and Accounts Officer, Zone-28, in an attempt to align the payments made with the Court's directions.

8. Long story short, several meetings were held but the petitioner remains unsatisfied. The petitioner has brought forth his own calculation sheet, claiming not only the amount which was wrongfully deducted but also interest. He seeks a total payment of ₹ 16,28,155.27/- as compensation for the wrongful deduction from his salary, along with ₹32,50,865/- towards interest and service dues.

9. Unhesitatingly, the calculation sheet placed by the petitioner cannot be accepted on its face value. There is no provision for charging interest against wrongful deduction.

10. Infact, Mr. Anuj Aggarwal, learned Additional Standing Counsel for the respondents, has alluded to the re-call application supported by an affidavit from the Deputy Director of Education, Zone-28, which suggests that the respondents, in compliance with the order dated 31.08.2018, have made the following payments to the petitioner:

“That it is most respectfully submitted that the Applicant/Respondent has, in no manner, defied or disobeyed any direction issued by this Hon'ble Court. It is further submitted that the Petitioner by way of W.P.(C) 7517/2015 titled as “Ajmer Singh Vs. GNCTD & Ors.” had approached this Hon'ble Court inter-alia praying for grant of 2nd ACP benefits and refund of the amount recovered by the Applicant/Respondent earlier paid to him towards 2nd ACP benefits and grant of 3rd MACP benefits.



It is further submitted that only 2 recoveries towards 2nd ACP had been recovered from the petitioner, details of which are as under:

- a) A sum of Rs. 1,57,500/- was recovered from the Petitioner's salary during the period from May 2011 to July 2013; and
- b) A sum of Rs. 2,34,876/- was recovered from the his Gratuity amounting of Rs. 7,41,180/- (the remaining amount i.e. Rs.5,06,304/- stood paid to the Petitioner on 10.05.2016). This fact gets amply reflected in Annexure P-3 filed by the Petitioner along with his written submissions.

Hence, an amount of Rs.3,92,376/- towards 2nd ACP was recovered from the Petitioner and not a sum of Rs. Rs.7,77,252/- as falsely alleged by him.

Towards due compliance of the Order dated 31.07.2018, the following amounts have been paid to the Petitioner:-

- a) Total amount of Rs. 5,68,218/- [Rs.567984 and Rs. 234/- vide Cheque Nos. 069634 and 069635 dated 18.03.2019 and 19.03.2019, respectively] were disbursed to the Petitioner, which included the following sums:
 - i) Rs. 1,50,000 (Recovered earlier towards 2nd ACP from his salary from May 2011 to July 2013)
 - ii) Rs. 2,34,876 (Recovered earlier towards 2nd ACP from his Gratuity on 10.05.2016)
 - iii) Rs. 1,83,342 (Arrear towards 3rd MACP benefits)

b) It is pertinent to mention that this Hon'ble Court vide order dated 31.07.2018, passed in the review petition, had inter-alia directed the Respondent Department to disburse 3rd MACP benefits with 9% interest p.a. to the Petitioner.

c) The Applicant/Respondent accordingly disbursed the total amount of Rs.2,94,660/- vide RTGS bill no. GIA/268 dated 30.10.20219, on account of interest. In parts it is as under:

- (i) Rs.81,125/- (Interest @ 9% p.a. on arrear of 3 MACP amounting Rs.1,83,342/-).
- (ii) Rs. 75,375 (Interest @ 9% p.a. on account of the recovered amount of Rs.1,50,000/- made from his salary towards 2nd ACP)
- (iii) Rs. 61,200 (Interest @ 9% p.a. on account of the recovered amount of Rs.2,34,876/- made from gratuity towards 2nd ACP)
- (iv) Rs. 76,960 (Interest @ 8.7% & 8.1% p.a.



on account of gratuity amounting
Rs.5,06,304/-)

d) It is pertinent to note that the Applicant/Respondent, although directed by this Hon'ble Court vide order dated 31.07.2018 only to disburse interest on the 3rd MACP benefits, however, additional interest was also paid to the Petitioner inadvertently, the details of which are as follows:-

S.No.	Particulars	Amount	Interest rate with period	Interest
1	Towards compliance of Order dated 31.07.2018 Arrear of 3 rd MACP (Grade Pay Rs. 4600/-) (w.e.f. 01.09.2008 to 28.04.2014)	Rs.1,83,342/-	@ 9% per annum (28.04.2014 to 31.03.2019)	Rs.81,125/-
2	Recovery made from salary on account of 2 nd ACP (from 01.05.2011 to 01.08.2013)	Rs.1,50,000/-	@9% p.a. (01.08.2013- 31.03.2019)	Rs.75,375/-
3	Amount recovered from gratuity on account of 2 nd ACP on 10.05.2016	Rs.2,34,876/-	@9% p.a. (09.05.2016- 31.03.2019)	Rs.61,200/-
4	Gratuity	Rs.5,06,304/-	@8.7% & 8.1% p.a. as per GPF rates (29.04.2014- 28.04.2016)	Rs.76,960/-
	TOTAL			Rs.2,94,660/-

8. That it is thus submitted that an additional interest has been paid to the Petitioner amounting to Rs. 2,06,035/- {(Rs. 2,94,660/-) (Rs.81,125/- + Rs.7,500/-)} despite there being no direction by this Hon'ble Court.

It is, however, submitted that at best, an amount of Rs.7,500/- can be stated to have remained pending against the recovery of Rs.1,57,500/- from the salary of the Petitioner as an amount of only Rs. 1,50,000/- already stands refunded till date. Thus, an amount of Rs. 7,500/- was remained to be pay which is



already adjusted in the aforesaid para. It is incorrect statement by the petitioner that Rs.3,92,376/- remained unpaid.”

11. The petitioner on being confronted with the aforesaid statement, agitated that he has not been paid interest on the wrongful deductions made from his salary. However, this Court is unable to persuade itself to find any fault with the statement of facts made by the respondents in their affidavit and it is reasonable to hold that the respondents have satisfactorily complied with the directions of this Court.

12. Hence, the present contempt petition is dismissed. The pending application also stands disposed of.

DHARMESH SHARMA, J.

AUGUST 28, 2024

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