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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 12.01.2024***

+ W.P.(C) 446/2024 & CM APPL. 2037/2024 -Int. dir. & CM APPL.
2038/2024 -Ex.

SITA KUMARI

..... Petitioner

Through: Mr Sourav Kumar and Ms. Yakshi
Rawal, Adv.

Versus**EMPLOYEES STATE INSURANCE CORPORATION AND ORS.**

..... Respondents

Through: Ms. Anita Thakur, Adv.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****REKHA PALLI, J (ORAL)**

1. The present petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 09.10.2023 passed by the learned Central Administrative Tribunal (Tribunal) in Contempt Petition (C.P.) No. 509/2023 in O.A. No. 2318/2028. Vide the impugned order, the learned Tribunal has not only dismissed the contempt petition preferred by the petitioner as not being maintainable but has also imposed costs of Rs.10,000/-.
2. It may be noted that the contempt petition was preferred by the petitioner seeking implementation of order dated 22.02.2023 passed in OA No. 2318/2018, vide which the respondents were directed to declare the result of the Limited Departmental Competitive Exam (LDCE) held in June, 2018. The learned Tribunal was of the view that since the petitioner



had already assailed the order dated 22.02.2023, by way of a writ petition before this Court being WP(C) No. 10880/2023, which was still pending adjudication, the petitioner could not have sought implementation of the said order.

3. Learned counsel for the petitioner submits that since the O.A. preferred by the petitioner, wherein she had also sought restoration of her seniority, had been disposed of by the learned Tribunal on 22.02.2023 with directions to the respondent to declare the result of the LDCE held on 10.06.2018, but without granting her any relief *qua* her prayer for restoration of seniority, the petitioner had no other option except to approach this Court by way of a writ petition. This however, could not preclude the petitioner from seeking implementation of the order to the extent it directed the respondents to declare the result of the LDCE especially when the respondent had admittedly not assailed the said order whereby they were directed to declare the result.

4. Issue notice. Learned counsel for the respondents accepts notice and seeks to support the impugned order, by contending that the learned Tribunal was justified in holding that the petitioner was not entitled to seek compliance of the order which had already been challenged by her.

5. Having considered the submissions of learned counsel for the parties and perused the record, we are in agreement with learned counsel for the petitioner that taking into account the nature of order passed by the learned Tribunal on 22.02.2023, the petitioner was not only entitled to challenge the same as per law but was also entitled to seek compliance thereof simultaneously. We are of the view that even if the petitioner chose to assail the learned Tribunal's order to the extent it did not consider her



prayer for restoration of seniority, by way of a writ petition which is still pending consideration before this Court; he could not be precluded from filing a contempt petition to seek compliance of the said order. Once the order has not been stayed and continues to bind the parties, the respondents are bound to implement the same.

6. We, therefore, have no hesitation in setting aside the impugned order passed by the learned Tribunal. The writ petition is, accordingly, allowed and order dated 09.10.2023 passed by the learned Tribunal is set aside.

7. However, taking into account that the respondents have till date not declared the result of the LDCE held on 10.06.2018, we direct the respondents to declare, within two weeks, the result of the LDCE held on 10.06.2018, in terms of the Tribunal's order dated 22.02.2023.

8. It is, however, made clear that the mere declaration of the results in terms of the order dated 22.02.2023 will not entitle the petitioner to seek promotion unless she is found to be otherwise eligible as per rules. Furthermore, the declaration of the result and grant of promotion, if any, to the petitioner will remain subject to outcome of WP(C) No. 10880/2023.

9. The writ petition stands disposed of.

REKHA PALLI
(JUDGE)

TUSHAR RAO GEDELA
(JUDGE)

JANUARY 12, 2024/acm