



\$~36

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 1408/2024 & CM APPL 60299/2025**
KASHMIR SINGH & ANR.Petitioners
Through: Mr. Nikhlesh Kumar, Advocate.
versus

HARMEET SINGH KALKA & ORS.Respondents
Through: Mr. Gaurav Kumar, Pandey, Advocate
(through Vc).

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
22.09.2025

%

1. This hearing has been done through hybrid mode.
2. The present petition under Section 12 of the Contempt of Courts Act, 1971 read with Section 151 of the CPC seeks the following prayers:

“A. Allow the present Petition and initiate contempt proceedings against the alleged Contemnors for violation and willful noncompliance of the final order dated 07.05.2024 in WP (C) No. 11877 of 2019 passed by this Hon’ble Court. B. Direct compliance of the final order dated 07.05.2024 in WP (C) No. 11877 of 2019 passed by this Hon’ble Court.

Pass any other or further orders as may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.”

3. *Vide* common judgment dated 07.05.2024 passed in W.P. (C) 11877/2019 & other connected petitions, following directions were passed by learned Coordinate Bench of this Court: -

“5. However, keeping in mind the submissions made today, Mr. Mishra, learned counsel for the respondents, without prejudice to his rights and contentions on the maintainability submits that on the issue of applicability of the said document, on which he is yet to obtain instructions, the respondents would consider the



representation of the petitioners to that extent.

6. On the basis of the aforesaid submissions, this Court is of the considered opinion that the document placed alongwith the rejoinder, which appears to be grade pay of the employees of DSGMC, though yet to be verified by Mr. Mishra, may be taken into consideration and any other further revision as stated in the year 2019, if at all, may also be taken into consideration for the purpose of pay and parity on the grade pay of Rs.4,200/- as sought.

7. The present writ petition may be taken as representation on behalf of the petitioners to the Competent Authority of respondent no.1. The Competent Authority of respondent no.1 shall consider and dispose of the same by a speaking order within a period of eight weeks from today.

8. The petitioners may be afforded an opportunity of hearing in support of their representation. The date, time and venue of such hearing may also be communicated to the petitioners well in advance.

9. The aforesaid consideration is without prejudice to the rights of the respondents *qua* the maintainability of the petitions before this Court. It is expected that the Competent Authority shall consider the same sympathetically too.”

4. Learned counsel for the petitioners submits that while disposing the aforesaid representation by speaking order, the respondents have held initial appointment of the petitioners to be invalid. It is, thus, submitted that the concerned Authority have not complied with the aforesaid directions. The copy of the speaking orders dated 14.10.2024 in respect of both the petitioners have been placed on record, wherein, following conclusions have been made:

-

KASHMIR SINGH (Petitioner no. 1):

“7. CONCLUSION

i) After going through the contents of the writ petition in



question and averments/submission of the DSGMC management and the petitioner as well, I (undersigned) observed that it needs no reiteration that where an appointment of an employee is flagrantly violative of the prescribed Recruitment Rules and thus illegal and invalid in the eyes of law, no substantive right to salary can arise. The right to salary and other statutory benefits spring from a valid and legal appointment to the post and once it is found that the very appointment is illegal and *non-est* in the eyes of law, no statutory entitlement for salary can arise. In this regard, it will not be out of context to say that the life of patients cannot be put to great risk, and danger in the hands of unqualified Doctors and/or Para-medical staff and it should be the endeavor of the management to provide high quality medical facilities to the patients in its Hospitals/Medical Centers. Hence, in my opinion the petitioner in question is not entitled for benefit of prescribed pay scale corresponding to his post in accordance the notification issued by the DSGMC management vide Office Note bearing No. 17870/1-1 dated 07.12.2016 unless & until it is found that he was eligible and qualified at the time of his initial appointment. This can only be done through Disciplinary proceeding/Inquiry which is reportedly to have already been commenced against the petitioner in question by the DSGMC management. As per information received from the DSGMC management, Show Cause Notice has been issued to the petitioner in question on 19.09.2024 and further action, as deemed fit, is being taken by the Management. However, to safeguard the health of the patients, the DSGMC management has issued Office Order bearing no. 7271/4-2 dated 20.09.2024 to Medical Supdt./Incharge of the concerned Hospital/Polyclinics/Dispensary that till further Orders the Paramedical staff to whom the said Show Cause Notice have been issued, be posted at a place in the same Hospital, Polyclinic and/or dispensary where no direct interaction with the patients and their services involving technical skills are required. However, the petitioner in question is being paid his existing usual pay & allowances. Hence, the question whether the petitioner is entitled to get pay scale in accordance with the aforesaid notification dated 07.12.2016 or not, can only be decided after the completion and outcome of the Disciplinary proceeding/inquiry, which is already in progress.

ii) Apart thereof, the conduct of the petitioner during personal hearings was also not appreciable because he refused to sign and



receive the Order Sheet dated 27.08.2024. Due to that, the undersigned was compelled to send the said Order Sheet to the petitioner through whatsapp and by special messenger also, but sadly the said Order Sheet was received by the petitioner under protest, without any reasonable cause. Again, the petitioner received the copy of the Order sheet dated 05.09.2024, 19.09.2024, 26.09.2024 & 07.10.2024 under protest, whereas sufficient opportunities were given to the petitioner in question to defend his case in all the personal hearings.”

AMRIK SINGH (Petitioner no. 2):-

7. CONCLUSION

i) After going through the contents of the writ petition in question and averments/submission of the DSGMC management and the petitioner as well, I (undersigned) observed that it needs no reiteration that where an appointment of an employee is flagrantly violative of the prescribed Recruitment Rules and thus illegal and invalid in the eyes of law, no substantive right to salary can arise. The right to salary and other statutory benefits spring from a valid and legal appointment to the post and once it is found that the very appointment is illegal and *non-est* in the eyes of law, no statutory entitlement for salary can arise. In this regard, it will not be out of context to say that the life of patients cannot be put to great risk, and danger in the hands of unqualified Doctors and/or Para-medical staff and it should be the endeavor of the management to provide high quality medical facilities to the patients in its Hospitals/Medical Centers. Hence, in my opinion the petitioner in question is not entitled for benefit of prescribed pay scale corresponding to his post in accordance the notification issued by the DSGMC management vide Office Note bearing No. 17870/1-1 dated 07.12.2016 unless & until it is found that he was eligible and qualified at the time of his initial appointment. This can only be done through Disciplinary proceeding/Inquiry which is reportedly to have already been commenced against the petitioner in question by the DSGMC management. As per information received from the DSGMC management, Show Cause Notice has been issued to the petitioner in question on 19.09.2024 and further action, as deemed fit, is being taken by the Management. However, to safeguard the health of the patients, the DSGMC management has issued Office Order bearing no. 7271/4-2 dated 20.09.2024 to Medical



Supdt./Incharge of the concerned Hospital/Polyclinics/Dispensary that till further Orders the Paramedical staff to whom the said Show Cause Notice have been issued, be posted at a place in the same Hospital, Polyclinic and/or dispensary where no direct interaction with the patients and their services involving technical skills are required. However, the petitioner in question is being paid his existing usual pay & allowances. Hence, the question whether the petitioner is entitled to get pay scale in accordance with the aforesaid notification dated 07.12.2016 or not, can only be decided after the completion and outcome of the Disciplinary proceeding/inquiry, which is already in progress.

ii) Apart thereof, the conduct of the petitioner during personal hearings was also not appreciable because he refused to sign and receive the Order Sheet dated 27.08.2024. Due to that, the undersigned was compelled to send the said Order Sheet to the petitioner through whatsapp and by special messenger also, but sadly the said Order Sheet was received by the petitioner under protest, without any reasonable cause. Again, the petitioner received the copy of the Order sheet dated 05.09.2024, 19.09.2024, 26.09.2024 & 07.10.2024 under protest, whereas sufficient opportunities were given to the petitioner in question to defend his case in all the personal hearings.

5. A perusal of the aforesaid speaking orders would reflect that the very initial appointment of the petitioners has been held to be invalid. The same, therefore, is the fresh cause of action for the petitioners.

6. In view of the aforesaid, the present petition is disposed of with liberty to the petitioners to initiate appropriate proceedings in accordance with law before the Court of competent jurisdiction/appropriate forum with respect to the aforesaid speaking orders.

7. Pending application(s), if any, also stands disposed of.

AMIT SHARMA, J

SEPTEMBER 22, 2025/bsr