

**Central Administrative Tribunal
Principal Bench, New Delhi**

CP No.419/2014 in
OA No.897/2011

Order Reserved on:17.08.2015
Order pronounced on:31.08.2015

Hon'ble Shri A.K. Bhardwaj, Member (J)
Hon'ble Shri K.N. Shrivastava, Member (A)

1. Mr. Har Narain Suman S/o Late Mr.Moti Ram
R/o B-4/60, Paschim Vihar
New Delhi-110063.
2. Mr. Amar Singh S/o Mr.Lila Mal
R/o C-9/244, Yamuna Vihar, Delhi-110053.
3. Mr. Lekh Raj S/o Late Mr.Tej Ram
R/o C-9/84, Yamuna Vihar,
Delhi-110053.
4. Mr. Chandan Singh S/o Late Mr.Saktu Singh
R/o C-9/269, Yamuna Vihar, Delhi-110053.
5. Mr. Radhey Shaym S/o Mr.N.Lal
R/o B-67, MIG DDA Flats,
East Loni Road, Delhi-110094.
6. Mr. J.S.Kataria S/o Mr.Gopi Kataria
R/o B-63, Gali No.15, Jagatpuri Extension
(Near GTB Hospital) Delhi-110093.
7. Mr. Inderjeet Singh S/o Mr.Fakir Chand
R/o H.No.A-32/2 Gali No.4,
Kaithwada, New Usman Nagar,
Shahdara, Delhi.
(All are retired Vice Principals from
Govt. Boys Sr.Sec.Schools,
Under Dte. Of Edn., Delhi). ... Petitioner

(By Advocate: Shri D.R.Gupta)

Versus

1. Govt. of NCT of Delhi
(Sh. S.K. Srivastava),
Chief Secretary

Player's Building,
I.P.Estate, New Delhi-110002.

2. (Smt. Padmini Singla),
Director of Education,
Govt. of NCT of Delhi,
Directorate of Education,
Old Secretariat, Rajpur Road,
Delhi-110054.

3. (Smt. Poonam)
Asstt. Director of Education,
(ACP Cell)/(E-II Branch)
Govt. of NCT of Delhi,
Directorate of Education,
Old Secretariat, Rajpur Road,
Delhi-110054.

... Respondents/
Contemnors

(By Advocate: Shri K.M.Singh)

ORDER

By Hon'ble Sh. K.N. Shrivastava,M(A):

This Contempt Petition has been filed under Section 12 of Contempt of Court Act, 1971 read with Section 17 of the Administrative Tribunal Act, 1985. The brief facts of the case are as under:

2. The petitioners had filed OA-897/2011 before this Tribunal seeking issuance of direction to the respondent to grant them selection scale to the eligible Post

Graduate Teachers (PGTs) from SC/ST categories, like general categories PGTs with arrears and interest @ 12% p.a. The petitioners belong to SC/ST categories.

3. The said OA was disposed of by this Tribunal vide its order dated 10.02.2014 by way of issuance of following directions to the respondents:-

"14. In view of the aforementioned, we dispose of the original application with direction to the respondents to examine:

- (i) Whether the applicants could complete 12 years as PGT (senior scale/selection grade)
- (ii) Whether on the date of completion of such service, they were within 20% of senior-most PGTs (Senior Scale/selection grade); and
- (iii) In case said conditions are found satisfied by them, the applicant would be considered for grant of selection scale as per the procedure laid down in the order dated 18.12.2009 (ibid) within a period of three months from the date of receipt of a copy of this order.

No costs."

4. In the instant C.P. the petitioners have contended that the respondents have not complied with the order of this Tribunal in OA-897/2011 dated 10.02.2014 and that they have wrongly stated that the petitioners are not

within 20% of senior-most PGTs. The petitioner have alleged that other PGTs who were junior to them and who acquired eligibility in the years 1998-99 have been granted selection scale by the respondents whereas the petitioners who became eligible for selection scale between the years 1993-96 have been denied the same. Thus, the respondents have willfully committed disobedience to the order of this Tribunal and are liable for contempt of courts proceedings.

5. In response to the notice issued, the respondents entered appearance and filed their reply by way of a compliance affidavit (pg. 55-62). The petitioners filed a rejoinder to the reply of the responds (pg.63-68). The respondents filed an additional affidavit (pg. 69-79) The petitioners filed a rejoinder to the additional affidavit filed by the respondents (pg. 81-84).

6. The case came up for final hearing on 17.08.2015. Shri D.R. Gupta, learned counsel for the petitioners and Shri K.M. Singh learned counsel for the respondents argued the case.

7. Learned counsel for the petitioners besides highlighting the points raised in the CP and in the rejoinder(s) filed by the petitioners, stated that the respondents have not implemented the order of this Tribunal in OA-897/2011 dated 10.02.2014. He said that the petitioners have granted selection scale to persons who acquired eligibility for selection scale much later than the petitioners. He further submitted that the respondents have not disclosed the materials relied upon to come to a conclusion that the petitioners are not in the list of 20% senior-most PGTs. Even information in this regard sought by the petitioners under the RTI was denied to them by the respondents; Shri Gupta argued. The learned counsel further submitted that the order No. DE(3)/ACP Cell/E-II/Court Matter/2014/331-38 dated 20.06.2014 passed by respondents purportedly in compliance with the direction of this Tribunal contained in its order (ibid) is devoid of any substance because in response to the RTI query of the petitioners dated 09.09.2014 (pg. 68) which had sought information as to number of PGTs in senior scale/selection scale, the reply given to them by the respondents is that no record is available (pg. 67). He vehemently argued that the

respondents have committed contempt by willful non-compliance with the order of this Tribunal and that contempt of court proceedings should be started against them.

8. Per contra, Shri K.M. Singh, learned counsel for the respondents submitted that the respondents have complied with the order (ibid) of this Tribunal by way of issuance of order No.DE(3)/ACP Cell/E-II/Court Matter/2014/331-38 dated 20.06.2014 (pg. 55). He submitted that while issuing the order dated 20.06.2014, the respondents have taken into consideration the guidelines issued by the Govt. of India, Ministry of Human Resources Development (Department of Education) vide letter No.F S5180/86-UTI dated 12.08.1987. He said that in terms of the said guidelines, it has been found that the petitioners are not within 20% of senior-most PGTs and as such they could not have been granted selection scale.

9. We have gone through the pleadings of both the parties and have perused the documents annexed to them. We have also considered the arguments of the

learned counsel for the two sides. While considering the CP, the only issue to be looked into is as to whether the directions issued have been complied with or not. No new directions can be issued in a contempt proceedings as per the principle laid down by the Hon'ble Supreme Court in the case of **V.M. Manohar Vs. Rajkumar** : (2006) SCC (L&S)907.

10. In the instant case, the Tribunal had issued three directions to the respondents vide its order dated 10.02.2014 in OA-897/2011 viz (i) whether the applicants (present petitioners) have completed 12 years of service as PGTs (ii) whether they are within 20% of senior-most PGTs; and finally (iii) if they are found to be eligible for grant of selection scale as per the procedure laid down in the order dated 18.12. 2009, then they should be given selection scale within a period of 3 months.

11. We find that the respondents in their reply have clearly stated that they have complied with the direction of this Tribunal fully by way of issuance of order No. No.DE(3)/ACP Cell/E-II/Court Matter/2014/331-38 dated

20.06.2014 (pg. 55). We have perused the said order which reads as under:

"Whereas Sh.Har Narain Suman and six other teachers were eligible for the grant of Selection Scale of PGT but their cases were not recommended by the Departmental Screening Committee held on 24.11.2009 due to non-availability of vacant posts in the category of PGT/SC/Male/Admn. Cadre as admittedly applicants belong to SC category. Thereafter, the petitioners filed an OA 897/2011 in Hon'ble Central Administrative Tribunal claiming grant of Selection Scale of PCT after completing 12 years continuous service in the respective cadre i.e. in the Selection Grade.

And whereas the Hon'ble CAT Principal Bench passed an order dated 09.05.2012 in OA 897/2011- Hari Narain Suman & Ors. v/s GNCTD & Ors. The following is the operative para of the said order:

"Considering the totality of facts and circumstances of the case as per extant guidelines for grant of Selection Scale to the Senior/Old Selection Scale of PGTs. We are of the considered opinion that the applicants have not made out a case in their support.

Resultantly, the Original Application being devoid of merit is dismissed. There is no order to cost."

And whereas the applicants filed Review Application No.202/2012 in OA 897/2011. Principal Bench of Hon'ble CAT allowed the RA and passed an order dated 10.02.2014. The following is the operative para of the said order:

"In view of the aforementioned, we dispose of the original application with direction to the respondents to examine"

- (i) Whether the applicants could complete 12 years as PGT (senior scale/selection grade)
- (ii) Whether on the date of completion of such service, they were within 20% of senior-most PGTs (Senior Scale/selection grade); and
- (iii) In case said conditions are found satisfied by them, the applicant would be considered for grant of selection scale as per the procedure laid down in the order dated 18.12.2009 (ibid) within a period of three months from the date of receipt of a copy of this order.

And whereas the Selection Scale is granted to the Govt. school teachers as per the guidelines issued by Govt of India, MHRD (Deptt. of Edn.) vide letter No.F.5-180/86-UTI dated 12.08.1987. The operative part of the guidelines dated 12.08.1987 para 3 is an under:

"The revised pay scales will be admissible subject to the following conditions:-

- (i) While Senior Scale will be granted after 12 years to Primary School Teachers, Trained Graduate Teachers/Headmasters of Primary Schools and Post Graduate Teachers/Headmasters of Middle Schools, the Selection Scale will be granted after 12 years service in the Senior Scale of the respective cadre. For the vice-Principals/Headmasters of secondary schools, there will be only Senior Scale after 12 years and no Selection Scale.
- (ii) The number of posts in the selection Scale for Primary School

Teachers, Trained Graduate Teachers/Headmasters of Primary Schools, Post Graduate Teachers/Headmasters of Middle Schools, the Selection Scale will be restricted to 20% of the number of posts in the Senior Scale of respective cadre."

The subsequent clarification dated 6.02.1989 has also been issued in this regard. The operative part of the clarification is as under:-

"Since it has already been decided to place those teachers who were in the pre-revised selection grade in the newly introduced senior scale, it is clarified that the service in the pre-revised selection grade may be counter as service in the revised senior scale for the purpose of grant of selection scale.

And whereas the petitioners have been granted old selection grade/ senior scale during the year 1981-84 (S/Sh. Hari Narayan Suman -31.10.1981, Inderjeet Singh-01.04.1983, Amar Singh-01.04.1983, Lekh Raj - 21.01.1983, J.S. Kataria -16.11.1984, Chandan Singh-14.09.1984, Radhey Shyam-22.10.1984) and they have completed 12 years regular service during the 1993-1996 but since they are not within 20 % of senior most PGTs (Senior/selection grade) so they cannot be granted selection scale as per the guidelines issued by the Government of India, MHRD (Deptt. Of Edn.) and procedure laid down in the order dated 18.12.2009.

Accordingly Orderd.

This issue with the prior approval of the Competent Authority and

complies with the order dated 10.02.2014 passed by the Hon'ble CAT in R.A. No. 202/2012 in O.A. No. 897/2011."

12. We are, therefore, satisfied that the respondents have complied with the directions of this Tribunal contained in its order dated 10.02.2014 passed in OA-897/2011. As such the Contempt Petition deserves to be dismissed and the same is accordingly done. No costs.

(K.N.Shrivastava)
Member(A)

(A.K.Bhardwaj)
Member(J)

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