

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

COCP No.2564 of 2016

Date of Decision:-18.01.2018

Kuljit Singh.

.....Petitioner.

Versus

Sh. S.S. Kharab, Director Elementary Education, Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH.

Present:- Mr. Manoj Chahal, Advocate for the Petitioner.

Mr. Indresh Goel, Additional Advocate General, Haryana.

JASWANT SINGH, J.

Petitioner has alleged violation of order dated 29.01.2013 (Annexure P-1) passed in CWP No 5257 of 2011, whereby Haryana Staff Selection Commission was directed to issue appointment letters to petitioner- Kuljit Singh and other persons alongwith all consequential benefits.

Learned Counsel for the petitioner contends that despite order dated 29.01.2013 (P-1), having been passed in his favour and more than 4 years having gone by, the respondents have still not offered petitioner any appointment and therefore, the respondents have willfully disobeyed the order dated 29.01.2013 (P-1) passed by the Writ Court.

On the other hand, learned State Counsel has argued that no contempt is made out, as the petitioner was indeed offered appointment

letter in the year 2013 itself to join at Panipat as per his seniority and merit, but petitioner refused to join the service at Panipat, as he desired to join at his home District in Bhiwani. Thereafter on 23.07.2015, petitioner moved an application to District Elementary Education Officer, Panipat that now he is desirous to join the service at Panipat and therefore he be given appointment letter. However, the respondents, after considering the entire facts of the case and especially the fact that considerable time had passed by, the appointment of petitioner-Kuljeet Singh was cancelled. It is therefore prayed that there no default, much less will-ful default on part of the respondents.

I have heard learned counsel for the parties at length and am of the considered opinion that present petition is completely devoid of merit and therefore liable to be dismissed.

In the opinion of this court, petitioner has misused the process of law by filing the present contempt petition. A perusal of the facts, especially the reply filed by respondents would show that originally petitioner was offered appointment letter on 10.12.2010 to the post of JBT Teacher at Panipat, but petitioner refused to join as he wanted to join at his home town at Bhiwani. Thereafter, due to dispute regarding validity of qualification of petitioner, the issue of appointment was kept in abeyance, as State of Haryana had serious reservations regarding the educational qualifications possessed by petitioner. However, the Writ Court in CWP No 5257 of 2011, vide order dated 29.01.2013 (P-1) held the educational qualification of petitioner to be valid and directed the State to offer appointment letters forthwith alongwith other benefits.

It is apparent from the record that petitioner alongwith other

persons, who were litigating alongwith petitioner-Kuljeet Singh, were offered appointment letters, which were accepted by them, except Kuljeet Singh, as he again agitated his claim for being appointed at District Bhiwani vide his letters dated 29.03.2013 and 12.07.2013. However, the said requests of petitioner were declined vide order letters dated 02.09.2013 and 10.09.2014 (Annexure R-3 and R-4) respectively.

It seems that after a lapse of nearly one year, petitioner-Kuljeet Singh had a change of heart and this time, he expressed his intention to join service as JBT Teacher to the District Elementary Education Officer, Panipat. However, this time, upon advice being sought by District Elementary Education Officer, Panipat from the Director Elementary Education, Haryana, the Director, vide his letter dated 16.02.2016 rightly rejected the claim of the petitioner and ordered cancellation of appointment letter. This fact was communicated by District Elementary Education Officer, Panipat vide his detailed order dated 08.07.2016 (P-5), which, as per the respondents has not been put to challenge till date, except in the present contempt petition. Meaning thereby, petitioner was indeed offered an appointment letter in pursuance to the order dated 29.01.2013 (P-1) passed by the Writ Court however, the petitioner, who has literally taken the department for a ride, who did not deem it appropriate to join the service at Panipat. It is seen that the order dated 08.07.2016 (P-5), whereby petitioner's appointment was cancelled has also attained finality.

It is settled position of law that contempt can be issued only for willful default on part of an erring person. However, the facts of the present case show that it is infact petitioner-Kuljeet Singh, who has erred and tried to get an order implemented by filing the present contempt petition, which

is not permissible under law. In any case, violation has been alleged of an order dated 29.01.2013, by filing a contempt petition in the year 2018 i.e much after the statutory period of one year. Hence, the contempt petition is otherwise not maintainable, being barred by limitation. Thus, on both counts i.e on merits as well as limitation, the present contempt petition fails.

In this view of the matter, no contempt is made out against the respondents and consequently, the present petition is dismissed.

(JASWANT SINGH)

JUDGE

January 18, 2018

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>