

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3800 of 2015
Date of Decision: 29.5.2015.**

Sewak Kumar

.....Petitioner

Versus

State Bank of Patiala and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. B.D.Sharma, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the orders dated 29.4.2015 (Annexure P-7) passed by the Appellate Court whereby application moved by the petitioner under Order 39 Rule 1 and 2 for the Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

I have heard the learned counsel for the petitioner and have gone through the record available on the file carefully.

Petitioner has filed suit for declaration to the effect that the disciplinary action initiated against him was not as per the Memorandum of Settlement dated 10.4.2002. Along with the suit, petitioner moved an application for temporary injunction that the defendants be restrained to proceed further with the disciplinary proceedings. The Trial Court vide order dated 26.2.2014 (Annexure P-6) allowed the said application. The said

order was set aside in appeal by the Appellate Court vide the impugned order dated 29.4.2015 (Annexure P-7). Hence, the present petition by the petitioner.

The learned Trial Court while allowing the application under Order 39 Rule 1 and 2 CPC, has held as under:-

“5. I have heard learned counsel for both the parties and have gone through the entire record carefully. Whether the departmental proceedings against the plaintiff was initiated as per law or not is yet to be proved by leading cogent evidence by both the parties. However at this stage a prima facie case has been proved by the plaintiff by disclosing that the enquiry proceedings has to be conducted in accordance with the provision of MOS dated 10.4.2002 and not accordance with any perceived practice. Moreover at this stage balance of convenience also lies in favour of the plaintiff. If the defendants be not restrained then the plaintiff will suffer an irreparable loss which cannot be compensated in terms of money. As such the defendants are restrained from proceedings further departmental proceedings till the disposal of main suit.

As such the application in hand is disposed of accordingly.”

A perusal of the above order reveals that the Trial Court had erred in allowing the application for interim injunction. In fact, the disciplinary proceedings could not be stayed during the pendency of the suit. The parties are yet to lead their evidence in

support of their case. The case of the plaintiff is that the disciplinary proceedings were being conducted against him as perceived practice and not as per the procedure of Memorandum of Settlement dated 10.4.2002 whereas the case of the respondents, on the other hand, was that proceedings were being carried out by them, in accordance with law. At this stage, there was no occasion to stall the enquiry proceedings. In the facts and circumstances of the present case, the plaintiff had no *prima facie* case or balance of convenience in his favour for grant of relief of ad interim injunction.

The impugned order passed by the Appellate Court, thus, does not call for any interference.

Dismissed.

**(SABINA)
JUDGE**

May 29, 2015
Gurpreet