

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.6295 of 2012 (O&M)
Date of Decision: September 17, 2015**

Balwinder Singh

.... Petitioner

vs.

Food Corporation of India and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rahul Rampal and Mr. Anchin Gupta, Advocates
for the petitioner.

Mr. K.K. Gupta, Advocate for respondent No.1.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the orders dated 15.02.2012 passed on the application under Order XXXIII CPC and 23.04.2012 passed by learned District Judge, Faridkot, passed on the application under Order XLIV CPC.

Learned counsel for the petitioner contends that though the petitioner has served as Quality Inspector but he was dismissed from service. Therefore, the view of the lower court that the present petitioner has got the retiral benefits, is incorrect. Further, the property shown in the jamabandi is lying attached. The application under Order XXXIII CPC was decided without recording the evidence and without giving any opportunity to the petitioner to state that he

did not receive any service benefits and have not got any income from the immovable property. The application was decided in summary manner without calling the parties to produce evidence to support their respective claims.

I am of the view that in view of the assertion of the petitioner that he did not receive any retrial benefits and does not have any income from the immovable property, which is lying under attachment, the evidence is to be recorded. Therefore, the impugned order dated 15.02.2012 declining the application under Order XXXIII CPC and another order dated 23.04.2012 rejecting the memorandum of appeal on account of non-filing of the court fee, are set aside.

The first appellate court is directed to conduct an inquiry and call for the report of the Collector concerned and conduct other inquiry necessary to determine as to whether the present petitioner is an indigent person or not and dispose of the matter on merits.

The parties are directed to put in appearance before the first appellate court on 20.10.2015.

The present revision petition is, accordingly, allowed.

September 17, 2015
sarita

(KULDIP SINGH)
JUDGE