

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 2095 of 2014 (O&M)

Decided on : - 11.12.2015

Indian Red Cross Society

. . . Appellant

Versus

Bhupinder Singh

. . . Respondent

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present:- Mr. K.K. Gupta, Advocate
for the applicant-appellant.

Mr. U.K. Agnihotri, Advocate
for the respondent.

SATISH KUMAR MITTAL, J. (Oral)

C.M. No. 3753-LPA of 2015

Application is allowed. Documents (Annexures RA/1 and RA/2) are taken on record, subject to all just exceptions.

LPA No. 2095 of 2014

This appeal is against order dated 07.11.2013 read with order dated 24.04.2014, passed by the learned Single Judge in CWP No.11622 of 2001.

Respondent Bhupinder Singh was an employee of Indian Red Cross Society (the appellant herein). He was working as a driver. On 03.05.1996, his services were terminated. It is the case of the appellant that the services of respondent were terminated on various acts of mis-conducts.

On the other hand, it is the case of the respondent that his services were

terminated on the ground of his conviction under Section 138 of the Negotiable Instruments Act.

The respondent has challenged his dismissal order by filing CWP No.9988 of 1996. Vide order dated 14.02.1997, the said writ petition was dismissed by Division Bench of this Hon'ble Court after hearing both the parties.

Subsequently, in criminal case on appeal filed by the respondent he was acquitted on the basis of compromise between the parties. Thereafter, the respondent filed CWP No.11622 of 2001 alleging that he was dismissed from service on the sole ground that he was convicted in a case under Section 138 N.I., Act, and since in the said case he was acquitted, he was entitled for re-instatement.

It is undisputed position that the said writ petition was allowed in the absence of the appellant. Against the said order, the appellant filed an application for recalling of said order and the same was also dismissed. Consequently, the appellant filed present appeal against the said order. Initially, it was dismissed on 07.01.2015. Thereafter, the appellant moved an application for review of the said order on the ground that he was not earlier aware of the dismissal of CWP No.9988 of 1996, and according to the appellant the said order operate res-judicata against the respondent. On the said ground the order dated 07.01.2015 was recalled vide order dated 01.05.2015 and the LPA has been ordered to be heard on merit.

We have heard the learned counsel for both the parties. It has not been a dispute before us that when learned Single Bench passed the order, allowing the application, the appellant was not heard and written statement was also not filed. In view of this factual position, we are of the

opinion that the justice requires the parties must be heard before the learned Single Bench.

In view of above, we set aside the order passed by the learned Single Bench and the matter is remanded back to the learned Single Bench with a request to consider and decide the writ petition on merits after getting written statement and hearing the learned counsel for both the parties.

The appeal is accordingly disposed of.

(SATISH KUMAR MITTAL)
JUDGE

(SHEKHER DHAWAN)
JUDGE

December 11, 2015
naresh.k.