

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-22491 of 2015 (O&M)
DECIDED ON: MARCH 10, 2016

SUKHWINDER KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers 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?

Present: Mr. Pardeep Goyal, Advocate
for the petitioner.

JASPAL SINGH, J

CRM No. 8162 of 2016

Application is allowed, as prayed for.

Annexure P-1 is taken on record subject to all just exceptions.

CRM No. M-22491 of 2016

Through this petition, petitioner has sought for holding an inquiry against respondent No.2 for filing wrong and false affidavit alongwith its Annexures dated April 18, 2015 in COCP No. 3123 of 2014 filed in CWP No. 27579 of 2013 before this Court in connection with respondent No.3, in

pursuance of which the afore-said contempt petition was disposed of with further prayer to take action against respondent No.2 on its own motion or send a complaint to the appropriate competent subordinate court for the purpose of trial.

2. The contention of learned counsel for the petitioner is that CWP No. 27579 of 2013 preferred by the petitioner against the respondents was disposed of while directing the Director General of Police, Punjab-respondent No.2 to look into the matter and consider the grievances of the petitioner raised vide its representation dated October 21, 2013 and decide the same at an early date by passing an appropriate order thereon in accordance with law within a period of two weeks from the date of receipt of certified copy of the said order. Since, respondent No.2 did not decide the representation of the petitioner within a period of two weeks, petitioner after waiting for a sufficient time filed contempt petition bearing COCP No. 3123 of 2014 for committing contempt of the Court by disobeying the order.

3. During the pendency of contempt petition, respondent No.2 filed status report alongwith Annexures R-1 and R-2 i.e. letter dated August 07, 2014 from respondent No.2 to the Principal Secretary to Government of Punjab, Department of Home Affairs and Justice, Chandigarh stating therein that Preetpal Singh Virk, Senior Superintendent of Police, Amritsar (Rural) has retired from service w.e.f. December 31, 2012 on attaining the age of superannuation i.e. more than 58 years. The status report in this regard is against the factual position. Petitioner also sought an information under RTI Act with regard to the retirement of Preetpal Singh Virk which has been

provided to him vide letter dated May 29, 2015 wherein, it has been unfolded that Preetpal Singh Virk remained posted as Senior Superintendent of Police, Amritsar (Rural) from July 01, 2012 to March 14, 2013, which falsifies the information provided by respondent No.2 in Annexures R-1 and R-2 which resulted in filing the contempt petition. Since a wrong information was provided on the basis of which the contempt petition was disposed of, a complaint is required to be instituted under Section 340 Cr.P.C. against respondent No.2.

4. After bestowing due consideration to the afore-said submissions made by learned counsel for the petitioner and evaluating the documents on record, this Court does not find any legal and factual weight in the submissions made by learned counsel for the petitioner.

5. A close scrutiny of the documents available on file reveals that respondent No.2 did not furnish any false or wrong information which necessitate the filing of complaint under Section 340 Cr.P.C. Here it would be pertinent to mention that date of birth of Preetpal Singh Virk is December 08, 1954 and he was to superannuate on December 31, 2012 after completion of 58 years of age. But Government of Punjab, Department of Finance (Finance Personnel-2) issued instructions dated October 08, 2012, according to which extension in the age to a Government employee can be granted upto the age of 59 years. Accordingly, the case of the petitioner for extension (till the age of 59 years) was sent to the Government vide letter dated December 31, 2012. His case was yet to be decided by the State Government, when he was convicted on March 11, 2013 in RC 5(S)/95-SIU-II dated August 23, 1995 under Section 342,

343, 346, 364/34 and 120 IPC.

6. Vide order dated December 16, 2013 (Annexure P-1), respondent No.2 was directed to redress the grievances of the petitioner. Since, the competent authority to decide the case of Preetpal Singh Virk is the State, the Principle Secretary, Home, Punjab was requested vide letter dated August 07, 2014 to consider and decide his case. The State Government after seeking legal opinion of Legal Remembrance, Punjab, issued an order vide notification No. 11/10/2013-1H1/1108-1113 dated April 13, 2015 (Annexure R-2) to the effect that Preetpal Singh Virk is deemed to have retired w.e.f. December 31, 2012 on attaining his age of 58 years. No doubt the petitioner served the police department and remained posted as Senior Superintendent of Police, Amritsar Rural from July 01, 2012 to March 14, 2013 but it does not mean that the information furnished by respondent No.2 in the contempt petition was wrong, especially in the circumstances that the petitioner has been deemed to have retired with retrospective effect i.e. w.e.f. December 13, 2012 as his case for extension was not finally decided when he was convicted on March 11, 2013. Since, there is nothing on record to suggest that any wrong or false information has been furnished during contempt petition by respondent No.2, instant petition is not sustainable in the eyes of law.

7. Accordingly, the same is dismissed.

MARCH 10, 2016
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(JASPAL SINGH)
JUDGE