HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.10678 of 2016
Date of decision:24.8.2016

Rashpal Singh

...Petitioner

Versus

Financial Commissioner, Punjab and others ...Respondents

CWP No.10826 of 2016

Hardev Singh

...Petitioner

Versus

Financial Commissioner, Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.M.L.Saini, Advoate for the petitioner.
Mr.Deepak Arora, Advocate for respondent No.2 and 3.

RAMESHWAR SINGH MALIK, J. (Oral)

These two identical writ petitions bearing CWP Nos.10678 and 10826 of 2016 are being decided vide this common order, as both the writ petitions are directed against the similar orders and the contesting respondents are the same in both the writ petitions. However, for the facility of refernce, facts are being culled out from CWP No.10678 of 2016 (Rashpal Singh Vs.Financial Commissioner, Punjab and others).

Feeling aggrieved against the order dated 30.3.2016 (Annexure P-5) passed by the Financial Commissioner (Appeals), Punjab, whereby application of the petitioner, seeking setting aside of order dated 27.1.2016 (Annexure P-3), dismissing his revision petition in default, was declined, he has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing the impugned order.

Notice of motion was issued. However, no reply has been filed.

Learned counsel for the contesting respondents fairly states that no reply, as such, is required to be filed on behalf of the contesting respondents.

Heard learned counsel for the parties.

It is a matter of record that when both the above-said revision petitiones were pending consideration before the Financial Commissioner and the learned counsel for the petitioners could not put appearance on 27.1.2016, both the revision petitions were dismissed in default vide identical orders dated 27.1.2016 (Annexure P-3) in both the cases. Learned counsel for the petitioners immediately moved similar applications, seeking restoration of the revision petitions by recalling the above-said order dated 27.1.2016. Applications were duly supported by an affidavit filed by the learned counsel for the petitioners himself, which is available on record as Annexure P-4. However, the Financial Commissioner failed to appreciate the well justified and bonafide reasons given in the applications, while passing the impugned orders.

In fact, a bare reading of the averments taken in the application (Annexure P-4), duly supported by the affidavit of the learned counsel for the petitioners, would make it crystal clear that sufficient and justified reasons were pointed out for non-appearance of the learned counsel for the petitioners on the date of hearing, i.e. 27.1.2016. Learned Financial Commissioner could not appreciate those peculiar facts and circumstances of the case, in the correct perspective, while passing the impugned order, because of which the same cannot be sustained.

It is the settled proposition of law that whenever any quasi-judicial authority decides the valuable rights of the citizens, every effort should be made to decide the case on merits instead on technicalities. Once learned counsel for the petitioners has filed his own affidavit in support of the application, seeking restoration of the revision petitions, the same ought to have been accepted by the learned Financial Commissioner. It is so said because the petitioners were not going to gain anything in getting their revision petitions dismissed in default. In this view of the matter, the impugned order has resulted in miscarriage of justice and the same is liable to be set aside, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impunged order dated 27.1.2016 (Annexure P-3) in both the writ petitions as well as the impugned order dated 30.3.2016 (Annexure P-5) in both the writ petitions, having been found suffering from patent illegality and perversity, which cannot be sustained and the same are hereby set aside. Both the revision petitions would stand restored to their original number.

Consequently, parties are directed to appear before the learned Financial Commissioner on 21.9.2016. Learned Financial Commissioner shall hear both the parties and thereafter decide both the revision petitions on merits by passing appropriate order, strictly in accordance with law.

Resultantly, with the above-said observations made and directions issued, both these writ petitions stand allowed, however, with no order as to costs.

24.8.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No