

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13676 of 2014
Date of decision: 21.11.2016

Bachi Bai

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.S. Chauhan, Advocate
for the petitioner.

Ms. Monica Chhiber Sharma, DAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant writ petition is directed against the order dated 15.12.2010 (Annexure P-10) passed by Financial Commissioner (Revenue), Punjab, whereby appeal of the petitioner was dismissed, upholding the order dated 14.06.2010 (Annexure P-9) passed by the Claims Commissioner, Punjab, rejecting the claim of the petitioner, primarily for the reason that her case was not pending consideration before any of the authorities of the State Government, at the time of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009.

Notice of motion was issued and in compliance thereof, written statement was filed on behalf of the respondents.

When the case came up for hearing on 26.10.2016, following order was passed by this Court: -

“Learned counsel for the petitioner has rightly referred to the orders Annexures P-5 and P-6, to contend, inter alia, that once claim of the petitioner was pending consideration before one or the other authority at the time of passing of the Repeal Act, 2005, impugned orders (Annexures P-9 and P-10) would be arbitrary because the relevant provisions of the Repeal Act would still be applicable in favour of the petitioner and her case deserves to be decided on merits.

Learned counsel for the State seeks short adjournment to get instructions.

On his request, adjourned to 21.11.2016.”

Learned counsel for the parties are ad idem that Annexures P-5 and R-1 are one and the same order. Vide Annexure P-5, petitioner was directed to put up her case before the Govt. of India and if her claim was found to be unsatisfied, then she may get her case referred to any State Govt., including the Punjab State, so that in that situation, the competent authority may pass appropriate order, considering the case of the petitioner on merits. In compliance of the order dated 17.08.2009 (Annexure P-6), petitioner was again referred to the State Govt. of Punjab for further necessary action in this regard. Consequently, petitioner again approached the respondent authorities but her case has been rejected, taking entirely a different and arbitrary stand without considering the case of the petitioner on merits.

Now the respondent authorities are saying that since the order dated 17.09.2001 (Annexure P-5) was not challenged by the petitioner before any appellate authority, said order has become final. However, this approach adopted by the Financial Commissioner has been found factually wrong and

contrary to the record as well. It is so said because as per order dated 17.09.2001 (Annexure P-5 and R-1), petitioner was directed to pursue her case before Govt. of India, which she did and was again referred to the Govt. of Punjab, as noticed hereinabove. In such a situation, there was no scope with the Financial Commissioner to say that order dated 17.09.2001 (Annexure P-5) has become final against the petitioner.

No other argument was raised.

In view of the abovesaid undisputed fact situation obtaining on the record of the present case, both the impugned orders have been found suffering from patent illegality and the same cannot be sustained. Accordingly, the impugned orders are hereby set aside.

Consequently, matter is remitted to the Claims Commissioner, Punjab-respondent No.3 to reconsider the claim of the petitioner on merits, treating it to be pending at the time of abovesaid Amendment Act. Respondent No.3 shall pass a fresh order, after granting due opportunity of being heard to both the parties, but at an early date and in any case within a period of three months from the date of receipt of certified copy of this order. It goes without saying that the Claims Commissioner, Punjab-respondent No.3 shall summon the relevant official record, go through the same carefully and only thereafter, appropriate order shall be passed, however, strictly in accordance with law.

With the abovesaid observations made and directions issued, instant writ petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

21.11.2016

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No