

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

CWP No.8780 of 2016

Date of decision: 06.05.2016

Vishal Zakhmi

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jatin Salwan, Advocate,
for the petitioner.

1. To be referred to the Reporters or not? Yes.
2. Whether the judgment should be reported in the Digest? Yes.

RAJIV NARAIN RAINA, J.(Oral)

A rather peculiar prayer is made in this petition invoking writ jurisdiction. It is not for nothing the petitioner has approached this Court and to the contrary for an apparently genuine and irksome cause. The petitioner wants his original testimonials submitted to the respondent department for consideration of his case for compassionate appointment returned to him. It is strange that the department should cause wanton obstruction to the return of the originals sitting tight over them even after rejecting the case of the petitioner for compassionate appointment against which action he is already in court seeking remedy of his grievance presented through CWP No.23131 of 2015 pending consideration for July 12, 2016.

The petitioner avers that he has been requesting the respondents to return his original documents so that he can use them

elsewhere. The originals are not being returned though they belong to him and are his property and the department has no further use of them except to defend the writ petition challenging the impugned order which can easily be done on photocopies. The originals can always be summoned from the petitioner in case something on their face becomes a fact-in-dispute. The petitioner has been forced to serve a legal notice on the respondents for return of his original testimonials. He laments that he has been made to run in vain from pillar to post in dogged pursuit of what belongs to him.

Leaving the petitioner to pursue alternative administrative remedies in the scenario presented or to relegate him to seek other legal recourse by way of civil remedy etc. only to delay the matter may result in a miscarriage of justice especially when such a grievance has been brought to the notice of the Court then it must then I think act in aid of the petitioner to rescue him from his plight. The negligent and culpable in-action of the functionaries of the respondent department in charge of affairs on such a small but precious matter borders on breach of trust and is highly condemnable for which apathy they deserve to be told off.

Notice of motion.

On the asking of Court, Mr. Inqulab Nagpal, AAG, Punjab, accepts notice on behalf of the respondents and waives service on them. There is no need to call for a reply from the State as no legal issue is involved for determination.

Therefore, the writ deserves to be accepted as prayed to instill trust in Court and loss of faith in administration. It is accordingly

allowed. A writ of mandamus is issued to the respondent department to hand over the petitioner his original testimonials/documents forthwith which were presented by him in support of his application for compassionate appointment. The department may retain photocopies of the same for their record. But while passing these orders, this Court deems it fit to saddle the respondent department with compensatory costs assessed at Rs.10,000/- for undue harassment meted out to the petitioner and to meet the forced litigation expenses which he must have incurred. The sum be paid to him at the time of handing over the illegally detained documents.

The documents in issue and the costs imposed are directed to be delivered to the petitioner personally by an office hand at his address against acknowledgment during the course of the coming week and definitely not beyond Friday the 13th, 2016. The petitioner would inform the respondent department by email or phone his contact address. The State would be at liberty to recover costs from person held responsible for not releasing the original testimonials when asked to do so.

Order dasti.

(RAJIV NARAIN RAINA)
JUDGE

6.5.2016
monika/Vimal