

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1792 of 2016 (O&M)

Date of Decision: 21.09.2016

Haryana Financial Corporation & Ors.

... Appellants

VS.

Meera Wadhwa

... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

- | | |
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| 1. Whether speaking/reasoned? | Yes / No |
| 2. Whether reportable? | Yes / No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes / No |
| 4. To be referred to the Reporters or not? | Yes / No |
| 5. Whether the judgment should be reported in the Digest? | Yes / No |

Present: Mr. Anshul Jain, Advocate for
Mr. Amar Vivek, Advocate for the appellants

Mr. JK Goel, Advocate for the respondent

SURYA KANT, J. (Oral)

CM-3661-LPA-2016

Reply filed by the respondent is taken on record.

For the reasons mentioned in the application, the same is allowed and the delay of 99 days in filing the present appeal is condoned.

CM stands disposed of.

LPA-1792-2016 (O&M)

(1) This Letters Patent Appeal is directed against an interlocutory order dated 12.07.2016 which is in continuation of the earlier interim order dated 11.04.2016. Vide these orders (i) learned Single Judge has admitted the writ petition filed by respondent without any further date of hearing; (ii) enquiry proceedings pursuant to the charge-sheet dated 21.04.2014 have been stayed; (iii) the appellants have been directed to make payment of the retiral benefits to the respondent (writ-petitioner).

(2) Since in the normal course, the final hearing of the writ petition is likely to take some time, we are of the considered view that the above-stated directions issued by learned Single Judge would amount to allowing the writ petition without adjudicating it on merits. We are thus satisfied that the order under appeal requires to be suitably modified.

(3) It may be mentioned here that the above-stated interim directions were issued in the writ proceedings initiated by respondent who joined the appellant-Corporation as a Stenographer on 26.11.1975 and in due course of time was promoted as Branch Manager. She was charge-sheeted on 21.04.2014 alleging that while posted as Branch Manager at Rohtak, she failed to obtain the copy of mutation/red entry in the revenue record in respect of Mortgage Deed and Deed of Collateral Security offered by loanee before disbursement of loan. Due to non-incorporation of these 'charges' in the revenue record, the loanee sold the mortgaged property in a clandestine manner in the year 1999. The charge-sheet is claimed to have been issued after the loanee committed default in 2010 as then only the appellant-Corporation is said to have come to know the sheer negligence committed by the respondent. These allegations are disputed by the respondent, as according to her counsel, the factum of non-entry of mortgage deed/collateral security deed was already known to the Corporation.

(4) Be that as it may, the above-stated question would be adjudicated by learned Single Judge before whom respondent has challenged the charge-sheet and enquiry proceedings.

(5) The only issue which arises for consideration before us, in the given circumstances, is whether the learned Single Judge was justified to

stay the departmental proceedings and at the same time to direct the release of retiral dues to the respondent?

(6) We have given our thoughtful consideration to the submissions and are satisfied that while the writ petition deserves to be heard at the earliest, only the GPF amount can be ordered to be released to the respondent as the Corporation cannot have any charge on such amount.

(7) For the reasons afore-stated, the appeal is allowed in part; the interim orders passed by learned Single Judge are set aside and the writ petition is directed to be listed for final hearing in the first week of January, 2017 with a request to learned Single Judge to take up the matter out-of-turn subject to any other part heard case. Till then, payment of retiral benefits except GPF amount shall remain stayed. However, in case the respondent succeeds in the writ petition, such benefit shall be released along with interest as may be determined by learned Single Judge.

(8) Ordered accordingly.

(Surya Kant)
Judge

21.09.2016
vishal shonkar

(Sudip Ahluwalia)
Judge