

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 403 of 2016

Date of Decision : March 15, 2016

Bhag Mall

.....Appellant

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. P.L. Singla, Advocate
for the appellant.

T.P.S. MANN, J.

The appellant has filed the present appeal under Clause X of the Letters Patent against the order dated 17.2.2016 passed by learned Single Judge, whereby C.M. No.1931 of 2016 in C.W.P. No.24750 of 2015 filed by him for modification of the order dated 28.11.2015 stands dismissed.

The appellant, who was posted as an Assistant Sub Inspector was dismissed by the Senior Superintendent of Police, Moga vide order dated 21.4.2015. The said order was passed by invoking provisions of Rule 16.1(2) of the Punjab Police Rules, 1934 and Article 311(2)(b) of the Constitution of India. Aggrieved of the same, the appellant filed an appeal, which was, however, dismissed by the Deputy Inspector General of Police, Ferozepur Range, Ferozepur Cantt. vide order dated 1.10.2015.

Still not satisfied, the appellant filed Civil Writ Petition No. 24750 of 2015, which came up for preliminary hearing on 28.11.2015. At the time of hearing, learned counsel for the appellant placed reliance upon the judgment of the Hon'ble Supreme Court in Sudesh Kumar Vs. State of Haryana and others, (2005) 11 SCC 525, wherein it was held that inquiry under Article 311(2) of the Constitution of India is a rule and dispensing with the inquiry is an exception. After observing that the matter required consideration, learned Single Judge admitted the writ petition and ordered for its listing for final hearing in the month of January 2019. The appellant then filed C.M. No.1931 of 2016 for modification of the order dated 28.11.2015 and for fixing of the case for final hearing at an early date but the said application came to be dismissed by the learned Single Judge vide impugned order dated 17.2.2016.

Having heard learned counsel for the appellant and on going through the order dated 28.11.2015 directing the listing of the writ petition for final hearing in the month of January 2019 as well as the impugned order dated 17.2.2016 dismissing the application for modification of the order dated 28.11.2015, this Court is of the considered view that there is no merit in the appeal. Learned Single Judge, after hearing learned counsel for the appellant and noticing the judgment of the Hon'ble Supreme Court in the case of Sudesh Kumar (supra), admitted the writ petition filed by the appellant and ordered for its listing for final hearing in the month of January 2019. Apparently, no

fault can be found with the said order. However, the appellant is not satisfied with the order of admission of the writ petition as according to him, the writ petition ought to have been posted for final hearing at an early date but instead, it had been ordered to be heard in the month of January 2019. According to the appellant, he is likely to attain the age of 55 years on 3.10.2017 and 58 years on 3.10.2020 and, therefore, wants early disposal of the writ petition filed by him. For that reason, he filed miscellaneous application which came up for hearing before learned Single Judge on 17.2.2016 but after hearing learned counsel for the appellant, the Single Judge did not find any ground for modification of the order dated 28.11.2015 and, accordingly, dismissed the same.

Merely because the appellant is likely to attain the age of 55 years in the year 2017 and 58 years in the year 2020 is no ground to direct the listing of the writ petition for final hearing at an early date. In case the appellant finally succeeds in the writ petition filed by him, he will be entitled to the consequential benefits but that is not sufficient to direct the listing of the writ petition for final hearing at an early date.

In view of the above, there is no merit in the appeal and the same is, accordingly, dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 15, 2016

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