

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

RA No.207 of 2015 in
CWP No.26069 of 2013
Date of Decision : 5.5.2016

Shri Krishna Govt. Ayurvedic College, KurukshetraApplicant

Vs.

Naresh Kumar and anotherRespondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Shivendra Swaroop, AAG, Haryana.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Applicant seeks review of order dated 28.11.2013, whereby its writ petition was dismissed and also seeks condonation of delay of 431 days in filing the review application.

Heard learned counsel for the applicant.

The only ground taken in the review application is that correct facts were not brought to the notice of the learned Presiding Officer of the Labour Court, while filing reply Annexure P-7 to the application under Section 33-C(2) of the Industrial Disputes Act, 1947 ('I.D. Act' for short). The application moved by the non-applicant-respondent no.1 namely; Naresh Kumar under Section 33-C(2) of the I.D. Act was dated 17.2.2012. Although the reply Annexure P-7 is undated and it is also not known to the learned counsel for the applicant-State of Haryana as to when this reply was

filed, yet it is a matter of record that the impugned order came to be passed on 22.8.2013 (Annexure P-8).

It is also a matter of record that no action, whatsoever, was even initiated against any of the erring officers/officials for the said serious lapse for allegedly not bringing true facts to the notice of the learned Labour Court in the reply Annexure P-7. When the learned counsel for the applicant was confronted with this aspect of the matter on 7.5.2015, he sought time to get instructions. Since no instructions were passed on to the learned counsel for the State even on the next date of hearing, then further opportunity was granted, while passing the order dated 13.7.2015, which reads as under :-

“ Learned counsel for the applicant seeks time to get instructions and the relevant official file to show that appropriate action was initiated and was taken to the logical end against the erring officers/officials who have not filed proper reply to the application filed by workman-respondent under Section 33-C(2) of the Industrial Disputes Act, 1947.

On his request, adjourned to 12.8.2015.”

Learned counsel for the applicant-State was still not having any instructions, as to whether any action was initiated in compliance of the above said order dated 13.7.2015 and on his request, the case was again adjourned to 17.11.2015 by passing the following order on 12.8.2015 :-

“ Learned counsel for the State-applicant seeks more time to apprise this court about the outcome of the action taken against the erring officers/officials.”

Yet another opportunity was granted, vide order dated 17.11.2015, which reads as under :-

“ Learned counsel for the applicant-State seeks one more opportunity to place on record an affidavit of the competent authority alongwith action taken report in compliance of the orders dated 13.7.2015 and 12.8.2015 passed by this court.

On his request, adjourned to 28.1.2016.”

Again, when the learned counsel for the applicant was not having any instructions about the action taken, one last and final opportunity was granted, vide order dated 28.1.2016, which reads as under :-

“ Learned counsel for the applicant seeks one last and final opportunity to ensure the compliance of the orders dated 13.7.2015, 12.8.2015 and 17.11.2015 passed by this court before the next date of hearing.

On his request, adjourned to 5.5.2016.”

In compliance of the above said orders passed by this court, now the affidavit dated 27.1.2016 has been filed pointing out in para 5 thereof that the erring official has been charge sheeted under Rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, wherein only a minor punishment can be awarded. Further, explanation has been sought from the concerned officer, which is yet to be received.

A bare perusal of the above said orders passed by this court and the affidavit dated 27.1.2016 would disclose a very sorry state of affairs, making it crystal clear that the applicant had never been serious in this

regard, at any point of time. In fact, the erring officers/officials want to avoid their responsibility and are trying to wash the dirty linen in the court, which is not permissible in law. Neither they had ever been found serious in taking any action against the erring officers/officials nor any such action, as a matter of fact, has been taken. In fact, had they been serious in this regard, the action taken report ought to have been part of the review application itself.

On the other hand, applicant had gone in slumber and took no action, whatsoever, against the erring officers/officials, who allegedly did not bring true facts to the notice of the court. This being the attitude and style of working leave the applicant dis-entitled for any kind of relief, particularly when the scope of review application is very limited. It is so said because nothing in this regard was brought to the notice of this court at the time when the order under review was passed on 28.11.2013. Further, not even a passing reference was made in this regard in the writ petition. The workman is being put to wholly unwarranted harassment.

In view of the above said undisputed fact situation obtaining in the present case, no case for review has been made out. Although in the circumstances noticed herein above, instant review application ought to have been dismissed with exemplary costs, yet costs are not being imposed leaving it to the competent authority to take appropriate action, in accordance with law.

Dismissed.

5.5.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE