

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.2557 of 2017 (O&M)
Date of decision: 24.08.2017

Ex. Constable Amarjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.S. Lakhanpal, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff is in revision petition against the order dated 06.02.2017.

Plaintiff had filed a suit for declaration claiming that the order dated 01.03.2007 passed by Commandant terminating the service of the plaintiff is illegal, null and void. He had also challenged the orders dated 07.09.2007, 06.02.2008, 15.01.2009, 06.12.2010 and also the order dated 28.05.2012. The suit was instituted on 07.12.2013. In this case, issues were framed and when the case was fixed for plaintiff evidence, he filed an application stating that he had wrongly mentioned the name of the disease he was suffering from as he was not in a position to exactly remember the disease to which he was suffering from. He was further submitted that the plaintiff came to know about this fact when reply to application under Order 11 Rule 14 was filed on 21.04.2014.

Learned trial Court after appreciating the facts available on the

file dismissed the application by recording as under:-

“Heard. The contention of applicant/plaintiff is that plaintiff in his pleading has incorporated that he was suffering from backache problem/disc problem inadvertently, but the plaintiff has produced medical certificates of fever, colic dysentery, vomiting, typhoid fever and enlargement of spleen. Plaintiff came to know about diseases when defendant department had submitted documents in response to application under Order 11 Rule 14 CPC. Therefore, plaintiff could not remember exact name of diseases. Perusal of plaint reveals that plaintiff in para no.2 of his plaint has stated that he was suffering from fever, backache and different diseases. It may be mentioned here that in the enquiry report, plaintiff in his application dated 2.5.2005 has stated that he was suffering from fever and vomiting. Plaintiff again in his application dated 12.4.2005 has stated that he was suffering from typhoid fever. During enquiry, plaintiff in his defence had examined Dr. Balraj Singh MBBS and doctor in his statement has stated that plaintiff was suffering from brain fever and he treated him from 5.4.2005 to 12.4.2005 and thereafter, he treated the plaintiff from 19.4.2005 to 2.5.2005. It may be mentioned here that plaintiff was very well within the knowledge regarding his illness and he was written applications 12.4.2005 and 2.5.2005 to Enquiry Officer and plaintiff was in possession of medical certificates issued by Dr. Balraj Singh. Therefore, plaintiff cannot say that he was not well within the knowledge regarding name of diseases at the time of filing present suit and it is settled law that amendment cannot be allowed after framing of issues except in exceptional circumstances. Therefore, I find no merits in the present application and same is hereby dismissed.”

The suit was filed in 2013. Issues have already been framed.

The suit is fixed for plaintiff's evidence. Therefore, the trial of the case of the civil suit has started.

As per Order 6 Rule 2, plaintiff is to state in precise the relief claimed and the pleadings are required to be in concise form. Plaintiff has filed a suit challenging various orders passed by the authorities dismissing him from service. Whether plaintiff was suffering from 'A' disease or 'B' disease is not required to be pleaded. It is a matter of evidence.

For the reasons recorded above and also for the reasons given by the learned trial Court, I do not find any good ground to interfere with the order passed by the trial Court.

Revision petition is dismissed.

24.08.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No