

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

254

CR-387-2016

Date of Decision:01.05.2017

Dr.Kanwaljit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.S.P.Soi, Advocate,
for the petitioner.

Mr.Inder Pal Goyat, Addl.A.G., Punjab,
for the respondents.

RAMESHWAR SINGH MALIK, J.(Oral)

Petitioner-decree holder, by way of instant revision petition filed under Article 227 of the Constitution of India, seeks to challenge the order dated 20.08.2015 (Annexure P-10) passed by the learned executing Court, whereby his decree dated 02.04.1997 was ordered to have been fully satisfied, by passing the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the decree dated 02.04.1997 will make it crystal clear that absence period of the petitioner was to be treated as duty period and as a consequence thereof, he was to be paid his salary along with interest @ 12% per annum, in accordance with law. The stand taken on behalf of the judgment debtors is totally ambiguous, saying that the required

amount has been paid to the petitioner to the tune of ₹10,477/- for the

period from 01.01.1990 to 16.03.2012. Prima facie, this figure of ₹10,477/- does not appeal to reason that only this much amount become due to the petitioner for a service of about 12 years.

Neither the judgment debtors have placed any calculation sheet before the learned executing Court nor any such facts and figures have been pointed out before this Court. It seems that the learned executing Court also did not insist directing the judgment debtors to place before it complete facts and figures as to how they have satisfied the decree. Having said that, this Court feels no hesitation to conclude that the learned executing Court has mis-directed itself, while passing the impugned order and the same cannot be upheld.

Learned counsel for the State, despite having instructions from the concerned officials of the Department, who are present in the Court, could not support the impugned order, pointing out to any relevant material and rightly so, it being a matter of record. In this view of the matter, it can safely be concluded that the impugned order is suffering from patent illegality and the same cannot be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality and is also a non-speaking order, it cannot be sustained. Accordingly, the impugned order dated 20.08.2015 passed by the learned executing Court is hereby set aside. Present revision petition deserves to be accepted.

Consequently, learned executing Court is directed to re-

consider the matter, examine the complete details insisting upon the judgment debtors to provide facts and figures as to how the petitioner was entitled only for ₹10,477/- for his service from 22.12.1989 to 16.03.2012. Thereafter, learned executing Court shall pass a fresh order, in accordance with law.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

May 01, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No