

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4188 of 2017

Date of Decision: 03.07.2017

Constable Kulwinder Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Rakesh Sobti, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

The petitioner has come in revision for quashing the impugned order dated 21.04.2017 (Annexure P-1) whereby, application under Order 6 Rule 17 of CPC filed by the petitioner has been dismissed.

Petitioner was enrolled in the police department as Constable. In the month of January, 2007, he was falsely implicated in the criminal case and accordingly, he was dismissed from service by the punishing authority. After conclusion of the trial, the petitioner was acquitted of the charges framed against him vide order dated 20.02.2014. After acquittal in the abovesaid criminal case, petitioner was reinstated vide order 24.09.2013. As per this order, petitioner was held not entitled to the pay/allowance/promotion and other privileges from the date of dismissal to the date of reinstatement. Petitioner had filed a suit for claiming benefits after his rejoining as he had been acquitted by the trial Court in a criminal case. During the pendency of the suit, respondents placed on record the order dated 06.07.2015 passed by the Addl.Director General of Police (Law and Order), Punjab, Chandigarh, whereby, the appeal of the petitioner was rejected. Accordingly, the petitioner moved an application under Order 6 Rule 17 CPC for amendment of the plaint to the extent of challenge the order dated 06.07.2015 also in the suit. Thereafter, application under Order 6 Rule 17 CPC for amendment of the plaint was heard and dismissed by the learned trial Court on 21.04.2017 without appreciating the facts of the case.

Learned counsel for the petitioner submits that one similar suit was going along with the present suit at that time where the applicant moved an application under Order 6 Rule 17 CPC for amendment of the plaint to the

extent of challenge the order passed by the DGP, Punjab, Chandigarh and the same was allowed by the Court. As such, present petitioner prays for filing new civil suit with the amendment in plaint.

Keeping in view that the petitioner was acquitted vide order dated 20.02.2014 by JMIC, Ludhiana and he was rightly allowed to join the service, the amendment in the plaint should have been allowed by the trial Court as no separate remedy was available to challenge this order. The order dated 21.04.2017 is set aside and the amendment is allowed.

Disposed of accordingly.

(RITU BAHRI)
JUDGE

03.07.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No