

RAJEEV THAKRAL
2017.12.08 09:28

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.3923 of 1996

Date of Decision:04.12.2017

Vijay Kumar Sood

... Petitioner

Vs.

Cotton Corporation of India and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Shailender Kashyap, Advocate for the petitioner.

Mr. Sandeep Khunger, Advocate for respondents No.1 to 4.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petition has challenged the orders dated 13.12.1988, 16.11.1988, 27.10.1989, 24.1.1991 and 3.3.1993 (Annexure P-9, P-10, P-12, P-13 and P-16 respectively).

Petitioner was subjected to disciplinary proceedings and he was dismissed from service on 13.12.1988. Thereafter, he has exhausted the remedy of appeal as well as revision which were passed against him on 27.10.1989 and 21/24.1.1991 respectively and were subject matter of litigation before this Court in CWP No.7854 of 1991. This Court allowed the petition on 13.12.1991 on short ground that one of the contention that petitioner has not been provided inquiry officer's report. Respondents feeling aggrieved by the order passed in CWP No.7854 of 1991 approached the Supreme Court. Supreme Court as a interim measure directed as under:

“Let this Special Leave Petition be placed after the disposal of Managing Director, Electronic Corporation of India Vs. B. Karunakar (1992 (1) SCC 709). In the mean time, we issue a partial order of stay whereby the respondent shall not be entitled to reinstatement or monetary benefits in pursuance of the impugned judgment.

The petitioners, however, must proceed with the departmental enquiry from the stage indicated in the impugned judgment. It is stated by the learned counsel for the petitioners that a copy

of the report had already been served on the respondent on December, 1988. The respondent is allowed to file his show cause in the matter within four weeks from today. The petitioners thereafter may proceed to decide the disciplinary matter finally. This will be subject to the final decision in the present case.”

Respondents while complying interim directions passed order of removal from service on 3.3.1993.

On 21.4.1995, SLP (Civil) No.6161 of 1992 was re-numbered as Civil Appeal No.4696 of 1995 and respondent's appeal was allowed on 21.04.1995 with the following order:

“Leave granted.

In view of the judgment of the Constitution Bench in Managing Director ECIL. Hyderabad and others vs. B. Karunakar and others; (1993 (4) SCC 722) the order of the High Court dated 13th December, 1991. cannot be sustained and the same is accordingly set aside.

Learned counsel for the respondent, however, submits that in the Writ Petition the respondent had raised many other issues also but the High Court did not advert to those as in the opinion of the High Court, the failure to furnish a report of the enquiry vitiated the order against the respondent. The High Court, we find from the impugned order only dealt with front ground and nothing more. In the Writ petition, however, the respondent had raised some other issues as well. Those issues were not considered or discussed by the bench. It is, therefore, appropriate that the matter be remanded to the High Court for disposal of the Writ petition in respect of the other issues raised therein.

Thus, while setting-aside the impugned order, we remand the matter to the High Court for its disposal in accordance with law on the other points raised in the writ petition. The appeal is, accordingly, disposed of. No costs.”

In view of the aforesaid, final order passed by the Supreme Court, it is to be noted that interim order merges with the final order dated 21.4.1995. In other words, final order holds good. In view of the remand, CWP No.7854 of 1991 was required to be decided with reference to other issues than the which was decided by the Supreme Court in-particularly whether furnishing of inquiry officer report is required or not? In this back ground, present petition challenging various orders sought supra are not maintainable. Consequently, writ petition stands disposed of. In the meanwhile, CWP No.7854 of 1991 was disposed of on 19.05.2011. Perusal of the order dated 19.05.2011, it is evident that none of the parties appeared and this Court was pleased to dispose of the writ petition with reference to the interim order of the Supreme Court dated 13.12.1991. In other words, final order passed in Civil Appeal No.4696 of 1995 decided on 21.4.1995 has not been taken note of apparently for the reasons that there was no assistance to this Court in apprising the decision dated 21.4.1995 on 19.5.2011 while disposing of CWP No.7854 of 1991. Therefore, petitioner is permitted to move necessary review application in CWP No.7854 of 1991; decided on 19.5.2011.

With the aforesaid liberty, writ petition stands disposed of.

04.12.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**