

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

Date of decision : September 08, 2017

1. CWP No.3721 of 2008 (O&M)

Dr. Gaurav Khanna vs Union of India and others

2. CWP No. 14294 of 2008 (O&M)

Dr. Bhupinder Singh & Ors vs Union of India and others

3. CWP No.15405 of 2009 (O&M)

Gaurav Khanna vs Union of India and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : None for the petitioner/s.

Mr. Aseem Aggarwal, Advocate
for respondent No.1-Union of India.

Mr. Rahul Sharma, Advocate
for respondent No.2 in CWP No.3721 of 2008.

Mr. Sumeet Goel, Advocate
for respondent No.2 in CWP Nos.14294 & 15405 of 2009.

Mr. Rajiv Joshi, Advocate

Ajay Tewari, J (Oral)

These three writ petitions are somewhat related and are being decided by this common order.

CWP No.3721 of 2008 was filed by Dr. Gaurav Khanna through Shri Rajiv Joshi and Shri M.P Gupta, Advocates and Shri Manmohan Singh, Sr. Advocate had also settled it and was appearing therein. Thereafter, at one stage Shri Rajiv Joshi having been appointed as a

counsel for the Union of India moved an application for being discharged from the case. He has, however, appeared today because his name was published in the cause list and states that though he is now no longer a counsel in this case yet the fact is that Shri Manmohan Singh, Sr. Advocate had passed away and at that point of time, he had informed the petitioner of that fact and had asked him to make alternative arrangements. However, none has entered appearance on behalf of the petitioner.

Mr. Rahul Sharma, Advocate has appeared on behalf of respondent No.2 in CWP No.3721 of 2008 and Mr. Sumeet Goel, Advocate has put in appearance on behalf of respondent No.2 in CWP No.14294 of 2008. On the asking of the Court, Mr. Goel enters appearance on behalf of respondent No.2 in CWP No.15405 of 2009 also.

Mr. Rahul Sharma points out that CWP No.3721 of 2008 was filed with the prayer that the petitioner be allowed to take the exams in December 2008. By way of an interim order, the petitioner was allowed to take the said examination and the result was directed to be kept in a sealed cover. He further points out that at a subsequent stage, this Court had directed the result to be brought before it and had opened the same and had recorded that the petitioner had failed in the said examination. As per the learned counsel, CWP No.3721 of 2008 has been rendered infructuous.

I find this submission to be correct and consequently dismiss CWP No.3721 of 2008 as having been rendered infructuous.

Mr. Goel points out that there was a similar prayer in CWP No.14294 of 2008 and in that case also the petitioners were seeking interim order as was passed in CWP No.3721 of 2008 but no interim order was granted to the petitioners. Since there was no interim order passed in CWP

No.14294 of 2008, the petitioners could not take the exams and consequently no relief can be granted to them. Resultantly, CWP No.14294 of 2008 is dismissed as having been rendered infructuous.

As regards CWP No.15405 of 2009, this was filed by the same petitioner who had filed CWP No.3721 of 2008 and in this subsequent writ petition his allegation was that he had been purposely failed in the examination by the respondent-Board on mala fide considerations only because he had filed CWP No.3721 of 2008. As per Mr. Goel, once there were allegations of mala fide, it was incumbent upon the petitioner to have impleaded by name the persons who as per him hovered malice against the petitioner and in the absence thereof, no finding could be given by the Court and once the finding of mala fide was not returned, this writ petition would have to be dismissed.

I find this submission also to be correct and consequently dismiss CWP No.15405 of 2008.

It is, however, clarified that since these writ petitions have been disposed of in the absence of the petitioners, they would be at liberty to move an application/s to recall the order if any thing survives.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

September 08, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No