

Civil Writ Petition No.16557 of 2017

[1]

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

Sr. No.106

Civil Writ Petition No.16557 of 2017
Date of Decision: September 06, 2017

VIRENDER SINGH

...PETITIONER

Versus

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Jangvir Singh Hooda, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of the instant civil writ petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of (i) certiorari quashing/modifying the order dated December 01, 2015, purportedly passed for re-fixing the pay of petitioner equal to Dharambir Sharma, Clerk only w.e.f. October 06, 2012 i.e. date of order passed in CWP No.9566 of 1993; in the garb of said order

Civil Writ Petition No.16557 of 2017

[2]

respondent-Bank has made an attempt to strangle the benefits allowed to the petitioner viz. Arrears of back wages treating entitled to continuity of service and seniority from the date he entered into service in the manner as his co-employee Dharambir was allowed to be retained in service, meaning thereby, the deem date shall be taken as his initial date of appointment as has been taken in the case of Dharambir; (ii) mandamus directing the respondents No.1 & 2 to release the arrears of pay and other monetary benefits after fixing the pay of the petitioner in the light of aforesaid judgment dated October 06, 2012 (P-2) as a necessary consequential flowing therefrom.

2. Undisputably, vide order/judgment dated October 06, 2012 passed in CM Nos.13742-43 of 2012 in CWP No.9566 of 1993, it was observed that petitioner is entitled to the relief to the effect that order of termination already made was bad in law and he is entitled to continuity of service and seniority from the date he entered into service in the manner as his co-employee Dharambir was allowed to be retained in service. The writ petition was accordingly allowed and application is disposed of in terms referred to above.

3. In compliance of aforesaid order, Managing Director and Chief Executive Officer, The Panchkula Urban Co-operative Bank Ltd. passed an order dated February 01, 2015, whereby pay of the petitioner was re-fixed equal to his counter part Shri Dharambir Sharma, Clerk. Since order dated October 06, 2012 was not complied with, petitioner-Virender Singh preferred a contempt petition bearing COCP No.1231 of 2016, which was disposed of vide order dated January 24, 2017.

Civil Writ Petition No.16557 of 2017

[3]

4. A perusal of order dated January 24, 2017 transpires that considering that the order dated October 06, 2012(wrongly mentioned/typed as March 18, 2011) pertains to only for re-instatement and the petitioner has already been granted the benefits of continuity in service as well as re-fixation of pay, nothing survives in the contempt petition. It was disposed of accordingly.

5. The order which is sought to be challenged through petition dated December 01, 2015 was passed much prior to the filing of contempt petition as well as disposal thereof vide order dated January 24, 2017. It cannot be challenged by way of a fresh petition. Otherwise also, a glance at the aforesaid order reveals that benefits awarded vide order dated October 06, 2012, have already been granted to the petitioner by the respondents.

6. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, it stands dismissed.

September 06, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**