

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-24922-2016 (O&M).

Decided on: January 31, 2017.

Gurbachan Singh

.. Petitioner(s)

VERSUS

State of Punjab and others

.. Respondent(s)

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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PRESENT Mr.B.S.Sewak, Advocate,
for the petitioner.

M.M.S. BEDI, J. (ORAL)

The petitioner, who is an Advocate by profession, has filed the present writ petition for a direction to the State of Punjab for payment of his professional fee amounting to Rs.6,38,000/- on account of having represented the State of Punjab in SLP (C) No.2317 of 2011 and SLP No.23507 of 2010, arising out of CWP No.18290 of 2009, on account of having visited Delhi and having put in appearance on few dates of hearing. The petitioner has sent a legal notice to the Secretary to Government of Punjab, Annexure P3, on 20.8.2014 for making payment of the bills submitted by him. The claim of the petitioner is that he had been deputed by former Additional Advocate General, to appear in the case.

On asking of the Court, no authority letter or power of attorney executed in favour of petitioner has been brought to the notice of this Court.

Counsel for the petitioner submits that the petitioner has got an enforceable legal right against the State of Punjab which owes professional fee to the petitioner for having rendered professional services as per the instructions of the office of Advocate General, Punjab.

I have heard the learned counsel for the petitioner and I am of the opinion that the following questions arise for determination: -

(i) whether petitioner has got an enforceable legal right to claim the relief sought for by him in the present writ petition;

(ii) whether the writ petition for recovery of professional fee by an Advocate from his client, which is a State in the present case, is maintainable;

(iii) whether the petitioner has been authorised by the State to represent the State in the case mentioned hereinabove;

(iv) whether the petitioner does not have any alternative efficacious remedy;

(v) whether the claim of the petitioner, at this stage, is maintainable while the case in which he claims himself to be engaged is still pending; and

(vi) whether there is any contractual or statutory obligation on the part of the respondents to satisfy the claim of the petitioner.

Without entering into the above said controversial issues of fact and law this Court is of the considered opinion that it will not be feasible for this Court to enter into the controversy regarding the disputed question of facts but since the petitioner seeks enforcement of his right against the State and his claim having not been finally settled as is apparent from the letter Annexure P5, addressed to Advocate General, Punjab, by the office of Welfare Department indicating that certain clarifications are required from the former Additional Advocate General, Punjab, who had

allegedly deputed the petitioner to attend the case in Hon'ble the Supreme Court on the dates of hearing.

This petition is disposed of with a direction to the office of Advocate General, Punjab, to verify the claim of the petitioner made vide notice Annexure P3 dated 20.8.2014 and take a final decision on the same.

It is made clear that anything mentioned in this order will not be considered as an expression of opinion on merits of the case.

It will be appreciated in case the grievance of the petitioner is finally adjudicated upon preferably within a period of six months after the receipt of a certified copy of this order.

A copy of the order may be communicated to the office of Advocate General, Punjab.

(M.M.S. BEDI)
JUDGE

January 31, 2017.

rka

Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No