

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1226 of 2018

Date of Decision: 14.11.2018

Mohinder Singh

.....Petitioner

Vs.

Punjab State Power Corporation Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vikas Garg, Advocate,
for the petitioner.

None for the respondents.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned trial Court dated 19.01.2018 (Annexure P-5), by which his application under Order VI Rule 17 CPC, seeking amendment of the plaint, has been dismissed.

Though the application was filed at a stage when the trial had commenced, i.e. the petitioner-plaintiffs' evidence was already 'in progress', learned counsel submits that the amendment sought is only to the extent that other than the declaration by which the order impugned in the suit is sought to be set aside/quashed, a further prayer seeking a decree of mandatory injunction is also sought to be added by which (effectively), the defendants should be directed to refund the arrears of pension to the petitioner along with interest @ 18% per annum from the date of accrual till the date of actual payment thereof.

Notice having been issued in this petition on 22.02.2018, it is seen that even by the next date that it came up for hearing, i.e. on 11.05.2018, the

respondents (defendants in the suit) stood duly served as per the **dasti** notice produced in Court on that date.

However, neither on that date nor even today, is there any representation on their behalf.

Consequently, the respondents-defendants not having appeared to oppose the petition they are proceeded against *ex parte*.

The prayer now sought to be added by way of the amendment, being in consequence of and subject to the first prayer of the petitioner-plaintiff being decreed in his favour, with no evidence to be led by the petitioner on that aspect, as even stated by learned counsel, the petition is allowed and the impugned order is set aside.

The petitioner would be permitted to amend the plaint as per the prayer given in the copy of the amended plaint annexed with this petition (Annexure P-3), within a period of 10 days from today, subject to payment of costs of Rs. 5,000/- to the District Legal Services Authority, Bathinda.

However, no fresh evidence shall be led by the petitioner after the aforesaid amendment,

It is made absolutely clear that this Court has not made any observation whatsoever as regards the merits of the case of the petitioner (for or against him or the respondents), which naturally would be gone into by the trial Court wholly on its own merits.

November 14, 2018
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.