

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1516 of 2017 (O&M)
Date of Decision: November 22, 2018

Neelam Mohan

...Petitioner

Versus

The District Red Cross Society, Ambala & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Jagram Singh Cooner, Advocate,
for the petitioner.

Mr. K.K.Gupta, Advocate,
for respondent Nos.1, 2 & 4.

AMIT RAWAL, J.

Through the instant revision, petitioner-plaintiff has impugned the order dated 17.02.2017 (Annexure P-1), judgment and decree dated 27.05.2014 (Annexures P-2 and P-3) and prayed for restoration of the appeal titled as “The District Red Cross Society & others Versus Smt.Neelam Mohan & others” preferred against the judgment and decree dated 30.11.2013, whereby the suit of the plaintiff was decreed.

Petitioner-plaintiff, in the year 2008, filed the civil suit by challenging the order dated 21.05.2008 passed by the Society, whereby her services were illegally terminated without following the principle of natural justice. The trial court, vide judgment and decree dated 30.11.2013, decreed the suit holding that the plaintiff be reinstated with continuity of service. The aforementioned judgment and decree was assailed by the Society by filing appeal which was allowed vide judgment and decree dated

27.05.2014 by holding that the trial court did not have the jurisdiction which vested with the Central Administrative Tribunal (for short” CAT”).

Mr. Jagram Singh Cooner, learned counsel for the petitioner-plaintiff submitted that vide judgment and decree dated 27.05.2014, the matter was transferred to the CAT. The CAT vide common order dated 12.08.2015 (Annexure P-6) held that it did not have any jurisdiction over the service dispute raised in the application and the petitioner was advised to file execution application before the executing court. The executing court vide order dated 22.08.2016 held the execution not maintainable. Petitioner moved an application dated 07.09.2016 (Annexure P-11) for restoration of the appeal and its decision on merits, but the same has erroneously been dismissed and, therefore, the present revision.

Mr. K.K.Gupta, learned counsel representing respondent Nos. 1, 2 and 4 submitted that the best possible remedy for the petitioner was to assail the judgment and decree dated 27.05.2014 after the decision of the CAT dated 12.08.2015 seeking condonation of delay. In the absence of the same, the appeal could not have been restored as the statutory remedy was available.

I am in agreement with Mr. K.K.Gupta, for, no explanation has come forth for not assailing the judgment dated 27.05.2014 dismissing the suit of the plaintiff, particularly when the CAT held that it did not have the jurisdiction in respect of the service dispute amongst the petitioner and the District Red Cross Society. Remedy was not to seek review or recalling of the order but separate appeal in higher court. In other words, once the judgment and decree has been passed, the same could be assailed under Section 100 of the Code of Civil Procedure read with Section 41 of the

Punjab Courts Act. In the absence of the challenge to the same, the impugned order cannot be said to be suffering from illegality or perversity. The same is upheld. Resultantly, the revision petition is dismissed.

November 22, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No