

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2443 of 2018 (O&M)
Date of Decision.10.05.2018

Sunil Kumar

...Petitioner

Vs

State of Haryana and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Balbir Singh Sewak, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

C.M. No.9216-CII of 2018

Application is allowed.

Judgment and decree dated 09.02.2008 is taken on record
as Annexure P-4.

C.R. No.2443 of 2018

The present revision petition is directed against the order dated 25.07.2016 whereby the execution application has been held to be not maintainable by entertaining the objection of the respondent-judgment debtor. Vide misc. application bearing No.9216-CII of 2018, judgment and decree dated 09.02.2008 has been placed on record wherein while decreeing the suit of the petitioner, the Court passed the following decree:-

“Claim for a decree for declaration to the effect that the order dated 1.2.2000 passed by defendant No.2 is illegal and is liable to be set aside and that the plaintiff is entitled to all the resultant benefits may kindly be

passed in favour of the plaintiff and against the defendants with costs, and further prayed that a decree for mandatory injunction directing the defendants to release the three annual grade increments along with resultant benefits which were stopped on the basis of illegal order dated 1.2.2000, along with interest thereon @18% p.a. from the date of withholding till payment to the plaintiff may kindly be passed in favour of the plaintiff and against the defendants with costs.

Plaint presented on 26.9.2005

The suit coming on this day for final disposal before me (Sunil Kumar, Civil Judge (Jr. Divn.) Rohtak) in the present of Shri V.S. Singal, counsel for the plaintiff and Shri Mahabir Singh, G.P. for the defendants.

And it is ordered that the suit of the plaintiff is partly decreed and partly dismissed. The order dated 1.12.2000 passed against the plaintiff is illegal and, hence, set aside. The plaintiff is entitled to the resultant benefits with interest at the rate of 6% per annum from the date of entitlement till its payment. The defendants are given liberty to pass fresh order within forty five days from the date of passing of this judgment. There is no order as to costs.”

The decree aforementioned does not give any cause of action to the plaintiff to file execution as the defendants were to pass

fresh order. The fresh cause of action accrued to the petitioner in case the order passed is against him. It has been brought to the knowledge of this Court that the respondent-Department has passed the order (Annexure P-3) and the remedy of the petitioner is to challenge the same in independent suit and not through the execution application.

In view of the aforementioned, I am of the view that the order under challenge is perfectly legal and justified and the same cannot be said to be passed without jurisdiction. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

May 10, 2018
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No