

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 3266-2018 (O&M)

Date of decision: 16.05.2018

Life Insurance Corporation of India and others

.....Petitioners

versus

Ashok Kumar Sobti

.....Respondent

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Prateek Mahajan, Advocate for the petitioners

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Impugned in the present revision petition is the order dated 1.3.2018 (Annexure P1) passed by learned Additional Civil Judge (Senior Division), Ambala vide which, application of dismissal of execution filed by the JDs -petitioners was dismissed. Also impugned is the order dated 27.9.2017 (Annexure P2) passed by learned Additional Civil Judge (Senior Division), Ambala vide which, application for dismissing the execution application or adjourning it sine die was also dismissed.

At the argument, stage, learned counsel for the petitioners does not press the revision against the order dated 27.9.2017 (Annexure P2), except for the observations that the decree granting liberty to hold second inquiry is obiter dictum.

Heard.

In a Civil Suit filed by the decree holder for declaration challenging the punishment order 28.3.2005, passed by the respondent JD

No.3 imposing the penalty of reduction in basic pay for three steps and the order dated 17.11.2005 passed by respondent no.2 rejecting the appeal were set aside and vide order dated 6.3.2014 the following order was passed:-

It is ordered that the suit of the plaintiff is decreed with cost and the plaintiffs, hereby held entitled to a decree for declaration to the effect that the order dated 28.3.2005 passed by defendant no.3 imposing upon the plaintiff with a penalty of reduction in his basic pay by three-steps and the subsequent order dated 17.11.2005 passed by defendant no.2 rejecting the appeal of the plaintiff against the order dated 28.3.2005 are illegal and against the principles of natural justice and are, thus, not binding upon the rights of the plaintiff. The plaintiff is also held entitled to the consequential relief of mandatory injunction directing the defendants to restore his all service benefits with retrospective effect. However, the defendants would be at liberty to conduct a fresh inquiry by following the principle of natural justice in letter and spirit and by providing all the documents, list of witnesses, statement of allegations & charges etc. as demanded by the plaintiff as per rules.

In terms of the liberty granted in the said decree, the defendants JDs held the fresh inquiry and vide order dated 20.5.2015 (Annexure P10) a penalty of reduction in basic pay by three steps was again imposed with retrospective effect i.e. from 28.3.2005. The said order was challenged by the plaintiff in separate Civil Suit. According to learned counsel for the petitioners, now the said suit has been dismissed in default.

I am of the view that the passing of the second punishment order dated 20.5.2015 (Annexure P10) does not absolve the JDs from implementing the first decree. In fact, the plea of the JDs petitioners is that since fresh order has been passed, therefore, civil decree passed by the

Court has become nullity and has become inexecutable.

I am of the view that in a decree mere liberty was granted to the department to hold second inquiry, which they have done. It was not obiter dictum part of the decree and was rather an executable order. The said decree has become final. Department has held second inquiry and passed a fresh punishment order.

In these circumstances, the trial Court was justified in dismissing the plea of the JDs petitioners that the decree cannot be executed.

I am of the view that the JDs are first to implement the judgment and decree dated 6.3.2014 and thereafter, they are at liberty to execute their punishment order dated 20.5.2015 (Annexure P10) and if they feel that in consequence of the second order, nothing is payable, they can also pass a departmental order in this regard and file appropriate objections in the execution. There is no ground to adjourn the execution sine die or dismiss the same.

Learned counsel for the petitioners at this stage states that the petitioners have already filed objections dated 5.6.2015 (Annexure P8). If it is so, the Executing Court shall deal with the same and dispose of the same in accordance with law.

The present revision petition is dismissed with above noted observations.

16.05.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No