

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1314 of 2015
Date of Decision : 19.12.2018

Gaje Singh (deceased) through LRs

. . . Appellant(s)

versus

State of Haryana and another

. . . Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present : Mr. R. A. Sheoran, Advocate
for the appellant.

Mr. Randhir Singh, Addl. A.G., Haryana.

AJAY KUMAR MITTAL, J. (ORAL)

1. The challenge in this Letters Patent Appeal filed under Clause X of the Letters Patent is to the order dated 01.07.2015 passed in **CWP No.8253 of 2006** whereby the learned Single Judge while upholding the termination of the appellant legal and valid, had set aside the recovery of the amount of ₹12,41,807/- from the appellant/legal heirs.

2. The primary grievance as raised by the appellant before the learned Single Judge was that the order of termination was passed vide order dated 16.05.2006 (Annexure P-7) without holding any inquiry and was thus legally unsustainable.

3. The appellant's services were terminated on the ground that he had claimed employment with the respondent-State on the basis of fake driving licence.

4. The learned Single Judge while rejecting the contention of the

appellant had noted that the appellant-Gaje Singh was arrayed as respondent in the proceedings initiated under the Motor Vehicles Act, 1988 and in such situation nothing prevented him to lead the evidence in affirmative to prove that the driving licence held by him was genuine and was not fake.

5. Learned counsel for the appellant was not able to show any material on record that the licence produced by the deceased-Gaje Singh was genuine which was issued by the competent authority and was not fake.

The observations recorded by the learned Single Judge reads thus:-

The petitioner was arrayed as a respondent in the proceedings initiated under the Motor Vehicles Act. Nothing prevented the petitioner to lead the evidence in affirmative to prove that the driving licence held by him was genuine or not fake. The petitioner did not avail such opportunity nor discharged the onus, particularly when the report of the Advocate had come as cause of action had accrued to take the effective measure/steps. The award of the Tribunal has attained the finality as, concededly, the petitioner has not challenged the aforementioned finding. Even in the present proceedings, no steps have been taken by the petitioner to place on record the material to support that the driving licence held by him was/is genuine. Accordingly, the order dated 16.5.2006 (Annexure P-7) terminating the services of the petitioner is fair, legal, justified and same is upheld.

As regards the recovery of a sum of ₹12,41,807/- sought to be effected from the petitioner, is concerned, the employer is not entitled to recover the same, for, as it is now a settled law that while employing a driver, the owner/ employer is required to make an enquiry vis-a-vis the driving licence of the driver from the licence authority. In the instant case, the employer has not taken any such steps. Since the petitioner has not challenged

the finding rendered by the Tribunal and such finding had attained finality, there was no occasion for the employer to hold an enquiry in accordance with law. Moreover, the Tribunal in its award has given liberty to the Insurance Company to recover the amount either from the owner or the driver and once the owner has discharged the liability, the owner cannot recover the amount of compensation awarded by the Tribunal for the reason that it has not taken any steps to verify the authenticity of the driving licence. Accordingly, the findings rendered by the Tribunal with regard to effecting recovery of the aforementioned amount is hereby set aside.”

6. In view of the above, we do not find any ground to interfere with the judgment passed by the learned Single Judge. Consequently, the present appeal is devoid of merits and is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

December 19, 2018

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No