

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-233 of 2022 (O&M)
Date of decision: 27.10.2022

The Secretary, Government of Punjab, Transport and others

..Petitioners

Versus

Ashok Kumar

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Chopra, DAG, Punjab, for the petitioners.
Mr. Amit Kaith, Advocate, for the respondent.

ANIL KSHETARPAL, J(Oral)

On 11.05.2022, the following order was passed:-

“Learned counsel for the petitioners, inter-alia, contends that the trial Court passed the impugned order Annexure P-1 for striking-off the defence of the petitioners (arrayed as defendants in the Civil Suit) on account of their not filing the written-statement within the prescribed period whereas the said lapse on the part of the defendants was not intentional and even otherwise, the erring official has already been awarded punishment for the same in the disciplinary proceedings initiated against him and the impugned order Annexure P-2 has been passed by the trial Court without touching the merits of the matter, while observing that the application to recall the order Annexure P-1 was not maintainable before it.

Notice of motion.

Let notice be issued to the respondent for 26.09.2022 through ordinary process, e-mail or any other electronic mode. Dasti as well.

The trial Court shall not pass the final order till the next date of hearing.”

Mr. Amit Kaith, Advocate, has entered appearance for the respondent and submits that the application for recall of orders striking-off the defence of the petitioners was also filed after a period of one year.

This Bench has heard the learned counsels representing the

parties at length and with their able assistance perused the paper book.

The respondent has filed a suit for declaration challenging the correctness of the orders dated 12.10.2016 and 18.02.2016 with the consequential benefits.

The respondent was an employee of the Punjab Roadways and he was compulsorily retired. He has challenged the correctness of the aforesaid orders.

In such a suit, it is necessary for the defendants to file a written statement. By now, it is well settled that the provisions for striking-off the defence on account of non-filing of the written statement is only directory. Even otherwise, the defendant being a public body is required to be given some additional leverage.

Keeping in view the aforesaid facts, the orders dated 05.04.2018 and 21.09.2021 are set aside.

The proposed written statement has already been placed on the paper book of this Court. Let the same be filed on or before 22.11.2022, subject to payment of costs of Rs.5000/- which shall be payable by way of demand draft to the respondent.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

October 27, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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