

Sr. No.743

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP-9504-2001 (O&M)
Date of decision: 26.05.2022

Sumer Singh

...Petitioner

Vs.

The Sainik Parivar Bhavans, Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. R.D. Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to promote the petitioner w.e.f. 01.03.2000 the date from which junior to the petitioner was promoted.

2. Petition was admitted for hearing on 15.10.2001.

3. When taken up for final adjudication, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 20 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

4. Learned State counsel submits that petitioner has superannuated from service as is borne out from the petition since he joined service in the year 1974 and currently would be 65 years of age.

5. In any case, even otherwise extra ordinary writ jurisdiction of this court is not the forum for mitigation of grievance of the petitioner. Claim of the petitioner is not admissible herein in view of the preliminary objection taken in the return filed that *Haryana Defence and Security Relief Fund* is not a state within the meaning of Article 12 of the Constitution of India. Petitioner was made aware of it at the very threshold yet no steps were taken.

6. In fact, as is borne out, much prior thereto, the petitioner was fully conscious and mindful of this court being forum non judice. And yet, he chose to do it otherwise in the second foray of instituting instant writ proceedings. His own filed earlier CWP No.12298 of 1989 was dismissed by this Court on 19.07.1990 on the ground of being not maintainable for lack of jurisdiction. Reference may be had to the said earlier order, reproduced herein below:-

CWP NO.12298 of 1989 (O&M)

ORDER

“Dismissed in view of the objection raised in paragraph 1 of the written statement filed on behalf of respondents No.2 to 4.”

7. Paragraph 1 of the written statement referred in the above order is reproduced below:-

“1. Secretary Haryana Defence and Security Relief (DSR in short) fund, in whose service the petitioners admittedly are, is not a ‘State’ within the meaning of Article 12 of the Constitution of India. A writ, therefore, does not lie against Respondent No.2.

In order to explain the correct position of the DSR Fund a brief note on its history and nature is given below:-

In 1965, large scale incursion into J&K by subversive elements from Pakistan flared into declaration of hostilities between India and Pakistan. Sensing this most dangerous threat to our survival as a nation, the patriotic fervor of our people rose to the occasion, and they offered large quantities of cash and valuables all over India to help the Jawans and their families.

In the Punjab (which then included Haryana), where the war was actually being fought, this generous response by the Punjab was overwhelming. Cash started pouring in. A fund, known as ‘Punjab Defence and Security Fund’ was instituted by the Govt. in the Punjab to enable the Punjabis to contribute to it. The initial target was set at Rs.50 Lakhs, but by 15.11.1966, the collection by the people was approximately 3.75 crore.

In 1966, the composite Punjab was reorganized into the new states of Punjab and Haryana. Haryana’s share of the Fund was transferred to it for the benefits of the jawans from Haryana and their families. This transferred Fund came to be known as the ‘Haryana Defence and Security Relief Fund; now DSR Fund in short.

To manage the DSR Fund, an ad-hoc committee was set up on the same lines as it was earlier set up in the composite Punjab. The Committee is reconstituted as and when a necessity arises. It may be noted that DSR Fund is neither a Govt. Department, nor is the Committee a statutory body or an instrument of the

*Govt. By practice, the Committee has the Chief Minister as its Chairman and other unspecified number of officials and non officials as its members. Its strength and composition continues to be adhoc from the beginning.
The Civil Writ Petition, therefore, deserves to be dismissed on this score.”*

6. Relying on the order *ibid*, learned State counsel canvasses that writ petition is not maintainable and seeks its dismissal in view of it not meeting the constitutional mandate of Article 12 of Constitution of India.

7. I am in agreement with the stand taken by the respondents as aforesaid and what has been urged by learned state counsel.

8. In the premise, no grounds to interfere are made out.

9. Dismissed.

26.05.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No