

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

237

CWP-13087-2020

Date of Decision: 31.10.2022

RAMA SHANKER

... Petitioner

VERSUS

BANKING OMBUDSMAN AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Ramandeep Kaur, Advocate for
Mr. Rahul Bhargava, Advocate
for the petitioner.

Mr. Pankaj Berri, Advocate and
Mr. Rahul Sharma, Advocate
for respondent No.2.

Mr. Sumit Narang, Advocate
for respondents No.3.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been instituted under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Mandamus directing the respondents to decide the representation dated 30.08.2019 (Annexure P-6) submitted by the petitioner.

Learned counsel for the petitioner contends that the petitioner has an account with respondent No.3-State Bank of India bearing account No.20161227361. On 22.03.2019, a cheque bearing No.004340 dated 18.03.2019 amounting to Rs.2,08,531 drawn on Punjab and Sind Bank by Ms. Monika in favour of the petitioner was presented in the account of the petitioner with respondent No.3 for encashment. However, the respondent No.3- SBI misplaced the said cheque and the same was altered with the name mentioned as Sumit Mahajan son of Mr. Rajesh Mahajan. Instead of clearing the said cheque in the account of the petitioner with respondent No.3-SBI,

the same was encashed through Indian Over Seas Bank, Gandhi Nagar, Jammu (Respondent No.2). Feeling aggrieved with the same, the petitioner submitted a complaint/representation to the respondent No.1 seeking redressal of his grievance vide complaint No.201819007010220 dated 08.05.2019, which was investigated and the claim of the petitioner was verified. Proceedings for conciliation were held. As per the conciliation meeting held on 30.05.2019, a decision was taken by respondent No.1 that respondent No.2 is liable to pay the entire amount and Punjab & Sind Bank to declare this transaction as fraudulent alongwith direction to respondent No.3 to pay 5% interest on entire amount from the debit tendering cheque date. Pursuant to the same, the respondent No.3-SBI deposited the penalty amount @ 5% i.e. Rs.2,028/- on 31.05.2019 towards part compliance of the order passed by respondent No.1- Banking Ombudsman. After a lapse of about three months from the abovesaid order, the petitioner had submitted a representation (Annexure P-6) for seeking issuance of direction to the respondent No.2-Bank to comply with the decision taken on 30.05.2019 by the respondent No.1. However, the respondent No.3-SBI neither complied with the order dated 30.05.2019 nor has taken any action on the representation (Annexure P-6) submitted by the petitioner.

Mr. Pankaj Berri, Advocate alongwith Mr. Rahul Sharma, Advocate and Mr. Sumit Narang, Advocate appear on behalf of the respondents No.2 and 3 respectively and pray for some time to complete their instructions and file responses.

Learned counsel for the petitioner submits that at this juncture, he would be satisfied if the respondents are directed to consider and decide the representation (Annexure P-6) in a time bound manner.

Learned counsel for the respondents do not oppose the prayer made by the learned counsel for the petitioner.

Accordingly, in view of the above, the present petition is disposed of with the consent of the parties and without commenting on the merits or admissibility of the claim with a direction to the respondent No.2 to consider and decide the representation (Annexure P-6) by passing a reasoned and speaking order after affording an opportunity of hearing to the respective parties, within a period of two months from the date of receipt of certified copy of this order.

Needless to mention that upon considering the said representation, if any amount is found due and payable to the petitioner, the same shall be disbursed in his favour within a further period of two months failing which, the amount so found due shall carry interest at the rate of 6% per annum from the date of filing of the present petition till actual disbursement.

31.10.2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No