

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

CWP-18547-2020 (O&M)

**Reserved on: 07.09.2022
Date of Decision: 21.09.2022**

Manpreet Singh Gandhoke

..... Petitioner

Versus

Axis Bank and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE HARKESH MANUJA**

Present:- Mr.Piyush Aggarwal, Advocate for the petitioner.

Mr. Shivoy Dhir, Advocate for respondent No.1.

Mr. Deepak Suri, Advocate for respondent No.2.

HARKESH MANUJA, J.

CM-8290-CWP-2021

Application for placing on record reply by way of affidavit of Kamaldeep Kaur, Branch Head, Axis Bank on behalf of respondent No.1 along with annexures R-1 to R-3 is allowed as prayed for subject to all just exceptions.

Registry to tag the same at appropriate place.

MAIN CASE

The present petition has been filed by the petitioner under Article 226 of the Constitution, *inter-alia*, for directing respondent No.1 to comply with the award dated 25.02.2020 (P-2) passed by respondent No.2.

For reference, operative part of the order dated 25.02.2020 is being reproduced hereunder:-

“BO Decision:

- 1. Investor will bear Rs.1.5 Lakh and remaining loss will be borne by the bank. Bank will refund Rs.8 Lakh minus Rs.1.5 Lakh to the complainant.*
- 2. Rs. 30 Lakh may be refunded without penal interest and charges.*

*Sd/-Complainant
25.02.2020*

Sd/-Sandeep Kaura

Sd/-(banking ombudsman)

Bank will take up in competent authority and update.”

Learned counsel for the petitioner has submitted that the order dated 25.02.2020 which is final and thus binding between the parties, has not been complied with till date, and the amount as ordered by respondent No.2 has not been released in his favour.

On the other hand, learned counsel for respondent No.1 has submitted that the order dated 25.02.2020 passed by respondent No.2 was not a final order. He further submitted that a subsequent meeting of its official with respondent No.2 was held and based thereupon, an e-mail dated 17.03.2020 (R-1) was sent by the official of respondent No.1 to its employees intimating to the following effect:-

“After our detailed submission, now it is agreed that loss to the customer up to NAV of 20th Jan will be borne by the customer and rest of the loss will be borne by the bank.”

Having heard learned counsel for the parties and gone through the paper-book, we find no force in the submissions made on behalf of respondent No.1.

A perusal of the record shows that the order dated 25.02.2020 (P-2) was passed by respondent No.2 in presence of both the parties and the same was final and conclusive. No further date of hearing was ever fixed by respondent No.2 in the matter thereby concluding the grievance/ proceedings finally.

In addition, it is admitted by respondent No.1 that notice regarding further communication between official of respondent No.1 & respondent No.2 and any change of decision thereupon, was not sent to the petitioner at any stage, and all the further proceedings were carried out behind his back. In the absence of petitioner having been put to any notice of the further proceedings, the decision taken subsequently, merely finding place in the internal communication dated 17.03.2020 (R-1) of respondent No.1 Bank, without having any seal of authority, cannot be made binding on the petitioner.

It is nowhere the contention of respondent no.1 that any appeal has been filed against the order dated 25.02.2020 so the same has attained finality.

In view of the above, this Court is of the considered opinion that the order dated 25.02.2020 is a final order and binding upon respondent No.1.

Therefore, the writ petition is allowed. Respondent No.1 is directed to comply with the order dated 25.02.2020 passed by respondent no.2 within a period of two months from the date of this order.

In case, the above order is not complied with by respondent No.1 within the period specified above, the petitioner shall be entitled to recover the same along with interest at the rate of 9% per annum from respondent No.1 The respondent No.1 shall also pay costs of Rs.25000/- within 04 weeks to petitioner.

(M.S. RAMACHANDRA RAO)
JUDGE

(HARKESH MANUJA)
JUDGE

September 21, 2022
sanjay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>