

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

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**CWP No.9554 of 2018 (O&M)
Decided on : 14.03.2022**

Postgraduate Institute of Medical Education and Research, Chandigarh

... Petitioner

Versus

Ravinder Sharma and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Abhishek Premy, Advocate for the petitioner.

Mr. Karan Singla, Advocate for respondent Nos.1 to 43.

G.S. Sandhawalia, J. (Oral)

The present writ petition filed under Articles 226/227 of the Constitution of India is directed against the order dated 24.04.2017 (Annexure P-4) wherein the Tribunal continued the interim order, whereby it had stayed the recovery in pursuance to the impugned order, but disposed off the original application with liberty to the applicant to file a fresh original application on the same cause of action without prejudice to their rights. Challenge has also been made to the order dated 06.11.2017 (Annexure P-9), whereby the review application filed by the petitioner-Institute was dismissed.

The same was done on account of the fact that the issue was subject matter of consideration before the Apex Court in **SLP (C) No.21803 of 2014 'Union of India Vs. M.V. Mohanan Nair etc.**, wherein there was a stay by the Apex Court. Another reasoning which weighed with the Tribunal was that the applicants would face huge financial expenses of unnecessary repeated adjournments and, therefore, liberty was granted to

the applicants to file a fresh OA on the same cause of action after the decision of the abovesaid SLP.

The petitioner-Institute had also filed a review application which was dismissed on the ground that there was no error in the order passed, which in the considered opinion of this Court is also not justified.

In the considered opinion of this Court, the said procedure which was followed by the Tribunal was not warranted or justified in any manner. Interim orders cannot be allowed to continue in the absence of main petition pending and, therefore, the exercise carried out by the Tribunal was extra-ordinary to the extent that the applicants-employees before the Tribunal were protected while disposing of the original application. It is the settled principle that interim orders always run till the currency of the litigation in which they are passed and not beyond that and the same is in consonance with the doctrine of merger. Therefore, the order dated 24.04.2017 (Annexure P-4) is not justified.

For the same reasoning the review application was dismissed on 06.11.2017 (Annexure P-9) on the ground that there was no apparent error on the face of the record.

A perusal of the paper-book would go on to show that it is the case of the petitioner-Institute that the employees were not covered by the judgment passed in '**State of Punjab & others Vs. Rafiq Masih (White Washer)**' (2014) 8 SCC 883, which had also been relied upon on account of the fact that they were Group-B

employees. The same was also brushed aside in the order under review, which is subject matter of challenge herein, without taking into consideration the settled position as such that interim orders have only limited life span till the main case is pending. If the said principle is to be applied, then an order passed by the Civil Court under Order 39 Rule 1 & 2 CPC can be continued, whereas the suit itself is dismissed as withdrawn, which is not logical. In such circumstances, the Tribunal was not justified in any manner by passing the impugned order.

The Apex Court in '**Asian Resurfacing of Road Agency Pvt. Ltd. & another Vs. Central Bureau of Investigation**', (2018) 16 SCC 299 has held that the power to grant stay has to be exercised with restraint and the order granting stay must show application of mind, since it is coupled with the accountability. It was, accordingly, held that stay should not be granted for indefinite duration and unless extension is granted by a speaking order. The said principle shall apply not only for corruption cases but for all other civil and criminal cases. The said principle of law laid down would thus be applicable in the facts and circumstances of the present case.

Mr. Singla submits that he would be satisfied if the impugned orders are modified to the extent that the case is remanded to the Tribunal for a fresh decision on merits, since it is not disputed that the judgment in the case of **M.V. Mohanan Nair (supra)** has now been finally pronounced as reported **2020 (2) SCT 366**.

Accordingly, the present writ petition is allowed and the orders dated 24.04.2017 (Annexure P-4) and 06.11.2017 (Annexure P-9) are set aside. The original application stands restored on the file of the Tribunal, which shall decide the same on merits. It is made clear that we have not opined on the merits of the case. Parties shall put in appearance before the Tribunal on 04.04.2022.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

March 14, 2022
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No