

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

LPA No. 1759 of 2014
Reserved on: 17.05.2022
Date of decision: 02.06.2022

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Tarsem Lal

....Appellant(s)

Versus

Punjab State Electronics Development and Production Corporation Ltd. and
others

....Respondent(s)

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

Present: Mr. Tarsem Lal, applicant-in-person.

Mr. Chanderdeep Singh, Advocate,
for respondent No.1.

G.S.SANDHAWALIA, J.

The present letters patent appeal is directed against the judgment dated 04.08.2014 passed by the learned Single Judge in CWP No. 16486 of 1994. The review application was also dismissed on 25.09.2014, which is also subject matter of consideration.

The challenge before the learned Single Judge was to the order dated 31.01.1992 (Annexure P-16 in the writ petition) whereby, the respondent-Corporation while cancelling the transfer order dated 27.01.1992, had retrenched the services of the appellant-writ petitioner under Section 25F of the Industrial Disputes Act, 1947 (in short 'the 1947 Act'). Similarly, the order dated 19.03.1993 was also under challenge

(Annexure P-44 in the writ petition) wherein, the request as such for reinstatement of the appellant-writ petitioner alongwith other employees had not been accepted by the Board of the Corporation.

The reasoning given by the learned Single Judge was that since there was no post available with the Corporation, he had been retrenched by offering the compensation which had been accepted by him but under protest. It was noticed that he was not the only one who was affected and there was an ELTOP Project which stood transferred to the Committee with 22 staff members. The writ-petitioner, alongwith three others, had objected to their transfer and the Committee had also opposed the transfer of Assistant Managers and, therefore, on account of abolishing the post and offering necessary compensation was the option available to the Corporation. Therefore, keeping in mind the fact that the writ-petitioner was also a Law Graduate and Member of the Bar since 1993 and had attained the age of superannuation in February, 2009, while dismissing the writ petition on 04.08.2014, it was held that no relief can be granted to him.

The case has a chequered history in as much as there was an earlier round of litigation and the writ-petitioner had been given an option in as such to approach the Civil Court or the Labour Court on 05.02.1992 (Annexure P-17) in CWP No. 16939 of 1991, Tarsem Lal and others vs. The Chariman, Punjab State Electronics Development & Production Corporation Ltd., which had been filed by the petitioner alongwith three other employees (Annexure P-17). In the said writ petition, the challenge had been raised to the transfer to the Committee on 31.10.1991 and to allow the petitioners to discharge their duties with the respondent-Corporation. The Corporation had placed on record the order dated 27.01.1992 whereby, it had modified

its earlier order dated 31.10.1991. Resultantly, the retrenchment orders had also been placed on record in the said writ petition as Annexures R-11 to R-15. The affidavit filed of Shri J.C. Sharma, Senior Manager (Legal) of the Corporation in the said writ petition by way of C.M. No. 1230-CWP of 1992 would go on to show the said facts. The same reads thus:-

“2. That the order dated 30.10.1991 vide which the services of the petitioners had been transferred to the Notified Area Committee, Mohali in view of the part of the project having been transferred to the Notified Area Committee under the decision of the High Level Committee of the Govt. of Punjab.

2. That the petitioners had not joined in the respective post with Notified Area Committee on 4.11.1991 and also remained absent from the duty and neither reported to the Corporation. The petitioners questioned the validity of the order dated 31.10.1991 passed by the Corporation.

3. That the order dated 31.10.1991 stands modified vide order dated 27-1-92 passed by the Corporation. A copy of the order passed by the Corporation is annexed as ANNEXURE R10 in view of the order passed by the Corporation. The notices and the order of retrenchment and termination of the services of the petitioners have also been communicated alongwith the amounts due to them by way of compensation and the salary commensurate to the period of notices and other dues has been enclosed and sent to the petitioners individually. Copies of the orders communicated to the petitioners alongwith photo copies of the cheques are annexed as ANNEXURES R11 to R15.”

It is on this account, the co-ordinate Bench, at that time gave liberty to the petitioners to approach the Civil Court or the Labour Court

since the writ petitioner was working as an Assistant Manager whereas, the others were having the designation of Senior Clerk/Senior Scale Stenographers and Accountants. The said order dismissing the writ petition reads thus:-

“Civil Miscellaneous is allowed as prayed.

In view of the order, Annexure R-10 we dismiss this writ petition with liberty to the petitioners to pursue their remedy before the civil Court or Labour Court, if so advised.”

Apparently, the petitioner did not revert to either of the options of approaching the Civil Court or the Labour Court and had represented to the Board for reconsideration, which request was dated 19.03.1993. The writ petition was again filed in the year 1994.

In our considered view, the writ petition itself is barred by the principles of *res judicata* as merely by a subsequent order having been passed by the Board rejecting the request would not revive the cause of action. The writ petitioner had earlier challenged his transfer to the Committee and the retrenchment orders had been placed on record. However, the co-ordinate Bench has refused to interfere with the same. Subsequent challenge as such to the order dated 31.01.1992 thus is not permissible and it is not for this Court to opine as to whether the liberty was rightly or wrongly granted for the alternative remedy.

The appellant is appearing in person and has tried to argue that he would not be covered under provisions of the 1947 Act being a Manager but could not justify the fact that even liberty had been granted to approach the Civil Court by the co-ordinate Bench. The learned Single Judge has

also noticed that the writ petition was filed after 2-1/2 years and the writ petitioner was already enrolled with the Bar in the year 1993 and had attained the age of superannuation in February, 2009. It is also to be noticed that the retrenchment compensation of Rs.65,467.16 had been accepted at that point of time and the other three petitioners in the writ petition had raised the industrial dispute but were not successful.

In such circumstances, we do not find any justification as such to interfere in the orders of the learned Single Judge as the writ petitioner was bound by the order dated 05.02.1992 *inter se* parties which had been passed against him. He could not file a fresh petition on the same cause of action having been relegated to his alternative remedy. A specific objection was also taken to this extent by the respondents in their written statement. It is also a matter of record that the writ petitioner had received a cheque as retrenchment compensation under protest at that point of time in the year 1992.

Keeping in view the above, we are of the considered opinion that the order dated 04.08.2014 passed by the learned Single Judge in CWP No. 16486 of 1994 does not suffer from any infirmity or illegality which would warrant interference in the present letters patent appeal. The same is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

02.06.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No