

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

302

CWP-6107-1993

Date of Decision: 15.09.2023

KRISHAN SINGH DADWAL

... Petitioner

VERSUS

STATE OF PUNJAB THROUGH THE SECY. TO GOVT.
PUNJAB HOME AFFAIRS AND JUSTICE PB. CHD AND ORS.

... Respondents

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

Present: Mr. Aditya Gautam, Advocate for
Mr. Rahul Sharma, Advocate for the petitioner.
Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed for seeking release of the fee as a Junior Counsel to conduct specially assigned cases/trials, which the petitioner claims to be entitled to, and which has been arbitrarily rejected for want of verification by the Director, Prosecution and Litigation and Additional Secretary of Government of Punjab.

The petitioner is a practising lawyer in the High Court and had been engaged as a Junior Counsel with the office of Special Public Prosecutor for conducting the cases against hard core terrorists. The petitioner claims that the fee as was admissible to him under the terms and conditions of his engagement has not been released by placing reliance on subsequent clarifications. He contends that the subsequent clarifications, if any, would not be applicable with respect to the claim raised by the petitioner and the period

for which the claims had been raised. Besides, such a clarification cannot alter the term of engagement and that too without his consent.

In the written statement, the respondents do not dispute the engagement of the petitioner as a Junior Counsel to assist Mr. K.T.S. Tulsi. While the Special Public Prosecutor was to attend effective dates, the Addl. Government Pleader was to appear on non-effective hearing. It is averred that the petitioner was never authorised to appear without the Special Public Prosecutor. The other bills have been cleared and released.

Counsel for the petitioner has relied on the judgment and decree dated 31.01.1998 passed by the Sub Judge Ist Class, Chandigarh in Civil Suit No.136 dated 22.07.1992, whereby the suit for declaration filed by the petitioner was decreed and he was held entitled to his Junior Counsel Fee. Appeal filed against the same by the Government of Punjab was also declined by the Addl. District Judge in Civil Appeal No.36 of 14.04.1998 dated 01.11.1999.

The respondents, however, contend that the bills in present case are other than those referred to and claimed through the above decree.

Taking into consideration the nature of controversy involved and that the dispute is in relation to fee bills for appearance in the matters wherein he was engaged as Junior Counsel with the Special Public Prosecutor and on the recommendations of the office of the Advocate General, Punjab, it is deemed appropriate to dispose of the present petition with a direction to the Advocate General, Punjab to constitute a Committee comprising of an officer not below the rank of Senior Additional Advocate General, Punjab/Additional Advocate General, Punjab; the representative of the Department of Prosecution and the representatives of the Department of Home Affairs as well as the Department of

Finance. The said Committee shall look into the claim made by the petitioner and shall, thereafter, submit a report to the Advocate General, Punjab within a period of two months. A final decision with regard to the claim of the petitioner be taken by the Advocate General, Punjab upon receipt of such report within a period of one month thereafter and on granting an opportunity of hearing to the parties. In the event any amount is found payable to the petitioner by the Advocate General, Punjab on consideration of the said report, the same shall be released forthwith without any further delay and preferably within a period of one month thereafter.

Petition stands disposed of accordingly.

SEPTEMBER 15, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No