

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

**CWP No.980 of 1996
Date of decision : 16.05.2023**

Balwant Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arun Bansal, Advocate,
Mr. Anubhav Bansal, Advocate,
Ms. Anju, Advocate and
Ms. Mandeep Kaur, Advocate for the petitioner.

Ms. Shivani Sharma, Dy. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

Petitioner prays for issuance of a writ in the nature of certiorari seeking quashing of the order dated 14th of September, 1995 (Annexure P-6) whereby he has been saddled with the punishment of recovery of Rs.70,000/-.

2. Petitioner in the course of employment was driving a government vehicle on 17th of October, 1991 when the same met with an accident. The petitioner entered into a compromise with the claimants on 18th of October, 1991. However, the claimants preferred Claim Petition before the Tribunal which awarded an amount of Rs.1.00 lac to the claimant along with interest. Pursuant to the aforesaid Award passed by the MACT, the petitioner was served with Show Cause Notice as to why half of the amount payable to the claimants including the interest be not recovered from him. After the petitioner filed reply, impugned order dated 14th of

September, 1995 was passed.

3. Mr. Bansal appearing for the petitioner submits that the vehicle was not insured on account of a decision taken by the Government not to insure the same and avail exemption. In view of that the Government ought to have shouldered the uninsured liability and not the petitioner. To hammer-forth his contention, counsel for the petitioner has relied upon the law laid down by the Apex Court in the case of '**State of Maharashtra and others vs. Kanchanmala Vijaysing Shirke and others**', (1995)5 SCC 659 and '**National Insurance Company Ltd. vs. Sinitha and others**', (2012) 2 SCC 356.

4. I have heard counsel for the parties and have gone through records of the case.

5. This Court finds that all the precedents relied upon by counsel representing the petitioner relate to an issue as to whether the State is liable under MACT Act or not. They do not deal with the issue wherein the State having been held liable under MACT Act has a right to proceed against its employee or not. In '**Inderpreet Singh Kahlon vs. State of Punjab**' (2006) 11 SCC 356, Apex Court held as under :

“It is now well-settled that a decision is an authority for what it decides and not what can logically be deduced therefrom. It is also well settled that a ratio of case must be understood having regard to the fact situation obtaining therein. [See *P.S. Sathappan (Dead) By LRs. v. Andhra Bank Ltd. and Others* (2004) 11 SCC 672] *M.P. Gopalakrishnan Nair v. State of*

Kerala, (2005) 11 SCC 45 and Haryana State Coop. Land Development Bank v. Neelam, (2005) 5 SCC 91.”

6. Thus none of the judgments is applicable in the present case. The petitioner was employed by the State to drive the vehicle and he was expected to drive the same with care and not with negligence. Admittedly, he has been proved to be negligent by Tribunal/Court of Competent Jurisdiction. Thus, the plea raised by Mr. Bansal cannot be accepted. He has not addressed any argument w.r.t. any legal infirmity in the procedure adopted by the respondents while awarding punishment to the petitioner.

5. Keeping in view that the punishment of recovery falls within the ambit of minor punishment as per the relevant rules, there being no infirmity in the procedure followed by the State, this Court finds no merit in the present writ petition. Resultantly the same is ordered to be dismissed.

May 16, 2023
Dpr

(Pankaj Jain)
Judge

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