

222

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15910-2016 (O&M)

Date of Decision: 04.07.2023

NAVTEJ SINGH

.....*Petitioner*

V/s.

STATE OF PUNJAB AND ANOTHER

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Raj Kaushik, Advocate,
for the petitioner

Mr. Vishnav Gandhi, Deputy Advocate General, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner has preferred this Writ Petition for the issuance of a Writ in the nature of *Certiorari* for setting aside the order dated 22.06.2016 endorsed on 06.07.2016 (Annexure P-8) vide which the departmental enquiry has been started against the petitioner.

2. The short point involved in the present case is that whether the respondents could have passed the impugned order dated 06.07.2016 for initiating the departmental enquiry afresh against the petitioner after the Civil Court, in an Appeal preferred by the respondents, allowed them to conduct enquiry afresh within 60 days vide its judgment dated 28.08.2015 (Annexure P-4) and the 60 days' period had expired before passing of the impugned order.

3. Learned counsel for the petitioner submits that as the respondents did not seek extension of time of the said period of 60 days from the Civil Court, they were not empowered to initiate the fresh enquiry in

relation to the dispute which had been challenged by the petitioner by filing the Civil Suit.

4. It has been stated that the petitioner had challenged the departmental enquiry proceedings as well as the punishment order of the compulsory retirement awarded to him by filing a Suit before the competent Court. The competent Court decreed the suit favour of the petitioner and quashed the proceedings as well as the punishment order and directed the petitioner to be reinstated. However, while deciding all the issues in favour of the petitioner, it further observed that respondents would be free to initiate departmental enquiry proceedings afresh within a period 60 days vide its judgment dated 09.02.2016 (Annexure P-6). Against the said judgment, the department preferred first Appeal before the learned District and Sessions Judge, Chandigarh but vide his judgment dated 09.02.2016 upheld the judgment decree passed by the Court below and further observed that respondents (appellants therein) would be free to conduct a fresh enquiry, if they so desire, within 60 days from that day. As the judgment was pronounced on 09.02.2016, the time limitation for conducting a fresh enquiry ended on 08.04.2016.

5. Learned counsel for the petitioner submits that after 08.04.2016, the respondents did not have the authority to conduct a fresh enquiry and the order dated 06.07.2016 is, therefore, bad in law.

6. Learned State counsel has urged in reply that the order passed by the Civil Court was examined and after considering all the aspects, approval was granted to initiate a fresh enquiry and the time taken in initiating fresh enquiry deserves to be condoned. Additional affidavit has also been filed on

their behalf and it is stated that in compliance, the petitioner was reinstated and thereafter, the matter was referred for the legal opinion.

7. On the receipt of the legal advice, fresh enquiry was ordered by the respondents on 02.05.2016. Accordingly, the competent authority issued orders after the same were approved and drafted on 22.06.2016.

8. It is stated that there was no intentional delay and the petitioner cannot take advantage of the said delay.

9. I have considered the submissions of the learned counsel for the parties and perused the material on record.

10. This Court vide its order dated 19.08.2016, while issuing notice, directed the Inquiry Officer not to proceed with the enquiry till the next date of hearing. From the perusal of the order sheet, it is apparent that the said interim order has continued till date and in view thereof, the enquiry could not be started.

11. It has also come on record that the petitioner, during the pendency of this Writ Petition, has attained superannuation on 31.03.2017 and he has also been given pension only but other retiral benefits are yet to be released.

12. This Court is of the view that the judgment and decree is required to be implemented in the same terms as they are passed. There can neither be any addition nor subtraction in the contents of the decree. Any violation or diversion from the decree can only be made on corrections/alterations being made by the concerned Court on filing of the review petition or revision/modification. Since, the respondents have not filed any review or moved any application under Section 151 CPC for

CWP-15910-2016 (O&M)

Page 4 of 4

seeking amendment in the decree, the contention of the respondents that the delay may be condoned or waived is not liable to be accepted and the same is rejected accordingly.

13. The order passed by the respondents for initiating departmental enquiry afresh dated 06.07.2016 falls beyond limitation period of 60 days in terms of the decree and is in violation thereto. Accordingly, the same cannot be sustained and the same is set aside.

14. The petitioner would get all consequential benefits of reinstatement and continuity of service upon his retirement. He would also be entitled to other retiral benefits if the same have not been released to him.

15. The delay in making payments relating to retiral benefits also attract interest @6% per annum and shall be released within three months from today.

16. The Writ Petition stands allowed accordingly.

17. No costs.

July 4, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No