

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.5338-2019 (O&M)

Date of Decision: 16.01.2023

Brij Mohan Sharma

..... Petitioner

Versus

Punjab State Transmission Corporation Ltd. and Others

..... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Deepak Gupta, Advocate for the petitioner.

Mr. Rajiv Dhawan, Advocate for respondent Nos.1 & 2.

Mr. Sahil Sharma, Advocate for respondent Nos.3 to 5.

Nidhi Gupta, J.

Prayer in the present Revision Petition is for setting aside the impugned order dated 10.04.2019 (Annexure P6) passed by learned Additional Civil Judge (Senior Division), Bathinda whereby the objections filed by the respondents/defendants/judgment debtors have been allowed by the Executing Court.

Brief facts of the case are that the petitioner/plaintiff/decreed-holder had filed a suit for declaration dated 11.11.2011 inter alia to the effect that the petitioner was entitled to all consequential benefits and arrears of pay and allowances, etc. as admissible to him on change/correction in his date of birth. Vide judgment and decree dated 09.03.2015 (Annexure P1), the petitioner's Civil Suit was decreed with the following direction to the defendants: *"to get the School Leaving Certificate of the petitioner of 7th standard verified and then decide*

the claim of petitioner with regard to correction of his date of birth and consequential benefits accrue if any. Decree Sheet be prepared accordingly. File be consigned to the Record Room after completing it in all respects.”

It is submitted by learned counsel for the petitioner that the respondents had filed an appeal against the aforesaid judgment and decree which was dismissed vide judgment dated 27.01.2017 (Annexure P2). It is submitted that thereafter, even the Regular Second Appeal filed by the respondents was dismissed as withdrawn vide order dated 15.02.2018 (Annexure P3). It is stated that thereafter, the petitioner had filed execution petition to which the respondents had filed their objections (Annexure P4) on 05.10.2018. Vide Annexure P5 dated 12.11.2018, the petitioner had filed written reply to the objections filed by the respondents/judgment debtors. It is vehemently submitted by learned counsel for the petitioner/decree holder that vide judgment and decree dated 09.03.2015, the respondents were directed to first verify the School Leaving Certificate of the petitioner of 7th standard and then decide his claim. It is submitted that the learned Executing Court was in error in allowing the objections of the respondents/judgment debtors as vide judgment and decree, the respondents were required to decide the claim of the petitioner and grant consequential benefits to him after such decision. It is submitted that the learned Executing Court has wrongly interpreted the direction given in judgment and decree that the competent authority was not bound to decide the matter only in favour of the petitioner. It is submitted that the learned Executing Court has no power to

go beyond the decree dated 09.03.2015 as held by this Court, and therefore, the impugned order deserves to be set aside.

In response, it is submitted by learned counsel for the respondents that vide judgment and decree dated 09.03.2015, the respondents were only required to verify the Class-7 School Leaving Certificate of the petitioner, and thereafter take a decision regarding the petitioner's claim. It is submitted that as evident from Annexure P-7, this has been done. Learned counsel for the respondents refers to their reply-cum-objections to the execution application of the petitioner to submit that it has been clearly stated in para 4 therein that the petitioner's case was considered and vide order dated 02.08.2018, the petitioner was held to be not entitled for any other additional terminal/pensioner/retiral benefits etc. It is submitted that accordingly, the execution of decree stands satisfied and the petitioner has not challenged the order dated 02.08.2018.

I have heard learned counsel for the parties.

I find merits in the arguments advanced on behalf of the respondents.

Vide judgment and decree dated 09.03.2015 the respondents were directed *"to get the School Leaving Certificate of the petitioner of 7th standard verified and then decide the claim of petitioner with regard to correction of his date of birth and consequential benefits accrue if any."* Thus, clearly, the direction given to the respondents is to: a) verify the Standard-7 School Leaving Certificate of the petitioner; and b)

decide the claim of the petitioner regarding correction of his date of birth and consequential benefits accrue, if any.

A perusal of Annexure P7 shows that the respondents had approached the petitioner's School and had duly verified the School-Leaving Certificate of the petitioner wherein his date of birth has been stated to be 06.05.1954. This fact is not disputed by the petitioner.

Thereafter, pursuant to verification of the date of birth of the petitioner, the respondents had passed order dated 02.08.2018, whereby the petitioner's claim for consequential benefits has been rejected. It is the petitioner's case that vide the judgment and decree dated 09.03.2015, he was entitled to consequential benefits upon correction of his date of birth. In my view, this is based on a misreading of the directions contained in the said judgment and decree. In my view, the language of the direction given to the respondents/judgment debtors is very clear and unambiguous, inasmuch as after verification, the respondents were required to decide the claim of the petitioner regarding correction of his date of birth and consequential benefits accrue, if any. Admittedly, the respondents have decided the petitioner's claim vide order dated 02.08.2018 after verification of his date of birth. In my view, that constitutes satisfaction of the decree. Nowhere has it been directed that the claim of the petitioner has to be decided only in his favour.

Moreover, order dated 02.08.2018 is not on record before this Court and it is stated that it has been passed by the respondents in conformity with the law laid down by the Hon'ble Supreme Court in

Union of India Vs. C. Rama Swamy and Others 1997 Volume-IV SCC 647. In case the petitioner is aggrieved of the same, that would constitute a separate cause of action for the petitioner, if so advised.

Accordingly, I find no merit in the present Revision Petition and the same is hereby dismissed.

Pending application(s) if any also stand(s) disposed of.

16.01.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No