

265-B

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

CWP-27720-2022 (O&M)

Date of decision : 10.02.2023

Dhiraj Kumar

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sardavinder Goyal, Advocate for the petitioner.

Ms. Puneeta Sethi, Sr. Panel, Advocate and
Mr. Ramesh Sharma, Advocate for respondent No.1-UOI.

Ms. Madhu Dayal, Advocate for respondent No.2.

Mr. Bhushan Bhatia, Advocate for respondent No.3-Bank.

VIKAS BAHL, J. (ORAL)

This is a Civil Writ Petition filed under Article 226 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of certiorari for quashing of the impugned orders dated 28.07.2022 and 20.10.2022 (Annexures P-7 and P-8) passed by respondent No.2.

Learned counsel for respondent No.2 has raised an objection with respect to the maintainability of the writ petition and has relied upon a judgment passed by the Full Bench of this Court in **Ram Parshad Vs. The Indian Institute of Bankers**, reported as **1992 AIR (Punjab and Haryana) 1**.

Learned counsel for the petitioner has submitted that though the petitioner would be able to satisfy the Court that even the writ petition would be maintainable but in view of the fact that he has instructions to withdraw the

present Civil Writ Petition so as to file a civil suit thus, he prays that the withdrawal of the present petition should not come in the way of similarly situated persons to raise the plea regarding maintainability of a writ petition filed in similar circumstances and the present petitioner be permitted to withdraw the present Civil Writ Petition with liberty to file a civil suit.

Learned counsel for the petitioner has further submitted that vide order dated 02.12.2022, a Coordinate Bench of this Court, while issuing notice of motion had also granted interim relief in the same terms as was passed vide order dated 23.09.2022 in CWP-22161-2022, to the effect that the benefits which have been given to the petitioner, shall not be withdrawn. It is contended that the said interim direction be continued for a period of one month.

Learned counsel for respondent No.2 has submitted that she has no objection to the said course of action and has further submitted that the said interim order should not be construed as an expression of opinion on the merits of the case and in case, the petitioner seeks alternate remedy, in accordance with law, including filing the civil suit, then the Civil Court should not be influenced by the order granting interim direction by this Court for the said period.

Keeping in view the abovesaid facts and circumstances and also in view of statement made by learned counsel for the petitioner and contesting respondent No.2, the present Civil Writ Petition is disposed of with the following observations:-

- 1) The petitioner is permitted to withdraw the present Civil Writ Petition with liberty to file a civil suit or to avail any other alternate remedy, in accordance with law.
- 2) The interim order dated 02.12.2022 passed by the Coordinate Bench of

this Court in the same terms as was passed in order dated 23.09.2022 in CWP-22161-2022, to the effect that the benefits given to the petitioner shall not be withdrawn shall continue for a period of one month from today.

- 3) It would be open to the petitioner to seek prayer for interim relief in the proceedings which the petitioner institutes. The Court/authority before which the proceedings are initiated, in accordance with law, would consider the grant of interim on the merits of the case, in accordance with law. The grant of the interim order by the Coordinate Bench of this Court and continuance of the same ordered by this Court for a period of one month from today would not be construed as an expression of opinion on the merits of the case and the said Court/authority would independently consider the main case as well as grant of interim, if any, prayed for by the petitioner.
- 4) It would be open to the respondents to move a caveat application in the said proceedings.
- 5) The passing of the present order would not come in the way of other similarly situated persons in raising a plea with respect to maintainability of a writ petition filed by them under similar circumstances. The said plea, if raised, would be considered, in accordance with law.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

10.02.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No