



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1399-2024(O&M)

DATE OF DECISION: 07.05.2024

M/s Hero Motocop Ltd. and anotherPetitioners

VERSUS

Vivek MannRespondent

CORAM HON’BLE MR. JUSTICE GURBIR SINGH

Present Mr.Rajiv Atma Ram, Sr. Advocate
with Mr. Rajat Khanna, Vijay Pratap Singh and
Mr. Vishal Saini, Advocates,
for the petitioners.

None for the respondent.

GURBIR SINGH, J

1. Challenge in this revision petition is to the order dated 15.02.2024 (Annexure P-5), whereby application moved by the petitioners/defendants for deleting the name of defendants no.2 to 4 from the array of the defendants is partly allowed. Names of defendants no.3 and 4 were struck off but name of defendant no.2 / petitioner no.2 was not ordered to be deleted.
2. Facts necessary for disposal of this revision petition are that respondent/plaintiff filed a suit for declaration with mandatory injunction with consequential relief of permanent injunction seeking redressal of his grievance against petitioner no.1 company with the prayer that he is entitled to rejoin his duties on the same status and with same package as well as with full back salary w.e.f. 11.05.2023 onwards; to receive the salary of 80 days along with interest and to get set aside the



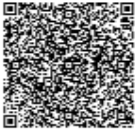
forcible documents of Voluntarily Retirement Scheme and for compensation of Rs.10,00,000/-.

3. It is argued by learned counsel for the petitioners that defendants no.2 to 4 are neither necessary nor proper party to the suit; no cause of action has occurred to file the suit against them; they have been impleaded only to harass and pressurise the defendant no.1 and no relief is claimed against them. It was open to the plaintiff to opt for Voluntarily Retirement Scheme and defendants no.2 to 4 cannot be held responsible for the same.

4. I have heard the learned counsel for the petitioners.

5. Defendant no.1 – Company has been sued through its Chairman. Defendant no.2 is Chief Human Resource Officer. Learned trial Court held that *prima facie* plaintiff was having a contractual job with defendant no.1 and there was no contract with defendants no.3 and 4 directly. Company is employer of defendant no.1. Names of defendants no.3 and 4 were struck off but name of defendant no.2 was not ordered to be deleted, keeping in view the real matter in dispute. Allegations against defendant no.2 are that he wrote e-mails to defendant no.2 seventeen days in advance to their final execution of Voluntarily Retirement Scheme. Defendant no.2 is only an officer of the Company and had no independent liability. Even if he was Human Resource Officer that does not give any cause of action to the plaintiff to sue him. The plaintiff was employee of the company and he has actually sought relief against the Company. Defendant no.2 is unnecessarily impleaded as no decree can be passed against defendant no.2 and there is no personal allegation against defendant no.2, so, name of defendant no.2 is also required to be struck off from the array of defendants. I draw support from the law laid down in **Tristar Consultants v. Vcustomer Services India Pvt. Ltd. And others AIR 2007 Delhi.**

6. Keeping in view of the above, this revision petition is allowed; impugned order dated 15.02.2024 (Annexure P-5) is hereby set aside to the extent that the name of defendant no.2 be struck off from the array of defendants.



7. Pending applications, if any, shall stand disposed of along with this judgment.

07.05.2024
mamta

(GURBIR SINGH)
JUDGE

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