

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-9776-2024
Date of decision: 30.04.2024

RANDHIR SINGH ALIAS BHAGAT JIPetitioner

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Vikram Singh Punia, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for seeking directions to the respondents to conduct a holistic and comprehensive investigation, by some independent investigating agency, into various acts of omissions and commissions committed against the petitioner.
2. Counsel appearing on behalf of the petitioner vehemently submits that one Partap Singh was appointed as a Conductor on a purely temporary basis on 18.04.1968 for a period of three months and his services were never regularized. The petitioner on the other hand was appointed on regular basis, on his recommendation having been made by the Subordinate Staff Selection Commission/Board, vide letter dated 25.06.1969. He submits that the above said Partap Singh was designated as Adda Conductor w.e.f.

1.2.1974 vide letter dated 08.02.1974 and was later promoted to the post of Inspector vide letter dated 07.03.1979 (erroneously stated in Para No.4). The said Partap Singh was further promoted as Chief Inspector/Welfare Inspector vide letter dated 06.07.2001. On the other hand the petitioner was promoted from the post of Conductor/Adda Conductor to the post of Sub Inspector on 21.02.1990 and thereafter he was promoted to the post of Inspector on 10.09.2003/24.07.2003. The petitioner eventually sought information under the RTI Act, from General Manager, Haryana Roadways, Delhi vide letter dated 27.12.2007 and a reminder to the same was sent on 30.01.2008. In response thereto, the General Manager, Haryana Roadways, Delhi certified that services of Partap Singh had never been regularized by the Department. It was thus argued that the petitioner having been promoted to the post of Sub Inspector on 21.02.1990 and then to the post of Inspector on 24.07.2003 should have been promoted to the said posts prior to the promotion of Partap Singh being senior to him in the same cadre.

3. The said matter of discrimination was agitated by the petitioner and he submitted his request for promotion to the Transport Commission but vide letter dated 27.11.2007, his claim was rejected. An appeal against the same was filed before the respondent No.4-Principal Secretary to the Govt. of Haryana and in the Department of Transport on 15.12.2007. A detailed representation was also submitted by wife of the petitioner to the Secretariat of Hon'ble President of India. It is argued that an inquiry was conducted by the Joint State Transport Controller wherein the petitioner was exonerated of any wrong doing and instead pointed towards certain conspiracy to raise allegations against the petitioner with malice.

4. The petitioner firstly approached the High Court vide CWP-

2602 of 2012 seeking service benefits and claims arising out of his service rendered as a Conductor in the Haryana Roadways since 1969. The said matter was decided vide order dated 13.02.2012 with a direction to the Financial Commissioner-cum-Principal Secretary to the Govt. of Haryana, Department of Transport to decide the appeal of the petitioner in a time bound manner.

5. Counsel for the petitioner further submits that the wife of the petitioner submitted a representation and reminders to the Chief Justice of the Punjab and Haryana High Court requesting protection of life and liberty by providing security and to get the case investigated by the CBI. It is pointed out that the petitioner was displaced from his parental house and he prayed for an enquiry to be conducted by the CBI in an application submitted to the President of India. The petitioner again approached this Court vide CWP-26539 of 2015 alleging that the petitioner had been wrongly deprived of certain promotional benefits that had been extended to one Partap Singh who was working on temporary basis. The said writ petition was decided vide judgment dated 27.10.2022 and the respondent-State was directed to consider the claim for promotion to the post of Inspector and thereafter, to the post of Chief Inspector with effect from the date when Partap Singh was promoted and grant the same, in case the petitioner is found entitled to the same as per the service record. Further direction was also issued to the extent of release of consequential benefits in the event of the petitioner being found entitled to the same. It is also averred that the petitioner also filed Criminal Writ Petition bearing No. CRWP-4362 of 2023 for seeking directions to constitute SIT comprising of senior officials at the State level from the Police and Revenue Department for

conducting an independent and transparent probe into the criminal acts of illegal and unauthorized occupation of the agricultural land of the petitioner. It is also pointed out that due to failure on the part of the respondents to comply with the judgment dated 27.02.2022 passed in CWP-26539 of 2015, a COCP No. 1253 of 2023 was instituted which was also disposed of vide order dated 19.12.2023 wherein a compliance affidavit had been filed on behalf of the State stating that the benefit of notional promotion to the post of Chief Inspector w.e.f. 06.07.2001 i.e. the date from which Partap Singh, Chief Inspector retired was given the benefits and arrears were to be paid.

6. It is further submitted by the Counsel that after passing of the order dated 19.12.2023 in the contempt petition, the General Manager of the Haryana Roadways had written to the Principal Accountant General, Haryana, Chandigarh for revising the pension and gratuity of the petitioner who retired as a Inspector in the Haryana Roadways by raising the basic pay to Rs. 19,600/- from Rs.18,852/-. A copy of the said letter was also sent to the petitioner. On receipt of the said letter, the petitioner sought for the details including the service book and personal file as well as the service record of Partap Singh, Chief Inspector retired, however, the State Public Information Officer of the Haryana Roadways, Rohtak informed vide communication dated 20.02.2024 that Partap Singh, Chief Inspector had in fact never retired from the Haryana Roadways, Rohtak.

7. It is argued that the Department thus held back the requested information that could have assisted the petitioner in making a comparison of the pay, pension etc. payable to him vis-à-vis Partap Singh, Chief Inspector (retired). It is also argued that the petitioner had made a request for personal file and the service book under the Right to Information Act, 2005,

however, the information was not sent and a false affidavit was filed by the then Traffic Manager of Haryana Roadways before the State Information Commission, Haryana at Chandigarh. It is submitted that despite best efforts, no suitable action to provide the requested record under the Right to Information Act, 2005 had been taken by the office of the General Manager, Haryana Roadways, Rohtak and that the petitioner has been continuously harassed during his service in Haryana Roadways by the Senior Officers of the Transport Department. It is further averred that the petitioner was also harassed by not releasing his LTC, payable as per the Government rules despite of confirmation issued by the Punjab National Bank and that disbursement of the terminal benefits to the petitioner was stopped in an unauthorized manner.

8. It is further submitted that the petitioner is entitled to the service record of Partap Singh, Chief Inspector (retired) so as to ascertain his promotional benefits and entitlements. He submits that he has already instituted a Civil Miscellaneous Application No. 5816-C-2024 in COCP No. 1253 of 2023 due to non-disbursement of the complete and due benefits. Alleging that the petitioner is being harassed and made to suffer on such repeated acts, he has filed the present writ petition seeking the direction that SIT ought to be constituted to enquire into various acts of omission and commission committed against the petitioner.

9. Counsel for the petitioner has placed reliance on the judgment of Hon'ble Supreme Court of India in the matter of ***"Manoj Kumar versus Union of India and others"*** passed in ***Civil Appeal No. 2679 of 2024*** arising out of ***SLP (C) No. 5278 of 2019***, as per which a compensation by way of restitution can be awarded by writ Court. Reliance has been placed

on Para 19, 20 and 21. The same are extracted as under:-

19. We are of the opinion that while the primary duty of constitutional courts remains the control of power, including setting aside of administrative actions that may be illegal or arbitrary, it must be acknowledged that such measures may not singularly address repercussions of abuse of power. It is equally incumbent upon the courts, as a secondary measure, to address the injurious consequences arising from arbitrary and illegal actions. This concomitant duty to take reasonable measures to restitute the injured is our overarching constitutional purpose. This is how we have read our constitutional text, and this is how we have built our precedents on the basis of our preambular objective to secure justice.

20. In public law proceedings, when it is realised that the prayer in the writ petition is unattainable due to passage of time, constitutional courts may not dismiss the writ proceedings on the ground of their perceived futility. In the life of litigation, passage of time can stand both as an ally and adversary. Our duty is to transcend the constraints of time and perform the primary duty of a constitutional court to control and regulate the exercise of power or arbitrary action. By taking the first step, the primary purpose and object of public law proceedings will be subserved.

21. The second step relates to restitution. This operates in a different dimension. Identification and application of appropriate remedial measures poses a significant challenge to constitutional courts, largely attributable to the dual variables of time and limited resources.

10. I have heard learned counsel appearing on behalf of the petitioner at length and have gone through the documents appended alongwith the present writ petition and also the judgment relied upon by the counsel for the petitioner.

11. I find that the present writ petition is grossly misconceived.

Various issues have been intermingled by the petitioner which have no significance and relevance and cannot be adjudicated in a writ petition, some of the instances are as under :-

- i) An issue in relation to the petitioner being evicted/dispossessed of his parental house has been raised with respect to which a representation was sent to the Hon'ble President of India.
- ii) A representation was also sent with respect to the petitioner being dispossessed from the agricultural land of which he was in possession.
- iii) The petitioner had sought information under the Right to Information Act, 2005 in relation to the service record of one Partap Singh from the General Manager, Haryana Roadways, Rohtak in response where to, it was informed that no such record is available. The petitioner has nowhere even averred that Partap Singh was in the cadre or superannuated from Haryana Roadways at Rohtak and that the service record ought to have been provided thereunder.
- iv) That the petitioner contends that his terminal benefits and other dues had been wrongly withheld, a cause for which he had already filed CWP-26539-2015 which was decided vide judgment dated 27.10.2022 and that the respondent-Department was directed to give all notional benefits. Feeling aggrieved of the non-release of the dues, a contempt petition was filed and he is already seeking revival of the said contempt petition for whatever benefits that are felt by the petitioner to have been wrongly withheld or the details having not been furnished.
- v) Another grievance espoused by the petitioner is that incorrect

information had been furnished by the Public Information Officer and that a wrong affidavit had been filed before the State Information Commission as well. The said grievance is not being sought to be redressed in present petition and his remedies are available under the RTI Act, 2005.

vi) A reference is made to a Criminal Writ petition filed by the petitioner for seeking protection which is wholly irrelevant and is not borne out from the facts of the present case as to under what circumstances any such petition was tenable or maintainable before this Court.

12. The present writ petition has now been filed for directing an investigation into various acts of omission and commission without pointing out any illegal specific act or omission for which the inherent jurisdiction of this Court is required to be invoked and an investigation/enquiry ought to be directed into by constitution of SIT. It seems that this writ petition is a proxy litigation that has been filed by the petitioner being dissatisfied by the non-release of benefits qua which contempt petition has already been filed by the petitioner pursuant to the order passed by this Court on 27.10.2022 in CWP-26539-2015.

13. In so far as the applicability of the judgment in the matter of *“Manoj Kumar (supra)”* is concerned, the ratio laid therein is not in dispute, however, I fail to determine as to how the said judgment is applicable to the facts of the present case. Once the admissible benefits have already been ruled in favour of the petitioner and a direction had been given to the respondent-authorities to assess the said dues and to release the same in a time bound manner, the restitutory compensation, if any, was required to be

agitated by the petitioner in CWP-26539-2015 itself. If no such additional benefit had been granted to the petitioner in the said writ petition, the petitioner cannot seek the same in a fresh writ petition. The same is accordingly misconceived and untenable and gives rise to disputed questions of fact wherein the liability, negligence and carelessness, if any, is required to be established and the quantum of compensation, if any, is also required to be ascertained on the basis of evidence.

14. For the foregoing reasons and finding that the institution of the present writ petition for the relief claimed is bad. This Court was inclined to impose a cost of Rs. 1 lakh for such frivolous attempts and wasting the time of the Court, however, on insistence of the counsel for the petitioner, the cost is waived.

15. The writ petition is accordingly dismissed with liberty to the petitioner to pursue his alternative remedies, if any.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 30, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No