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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14612-2024

Date of Decision:01.07.2024

BHUVAN SHARMA AND ANOTHER

..... Petitioners

Versus

NATIONAL INSTITUTE OF TECHNICAL TEACHERS
TRANING AND RESEARCH

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Gagandeep Goel, Advocate
for the petitioners (Through V.C.).

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Article 226 of the Constitution of India are seeking direction to respondent to release service benefits of their father.

2. The petitioners are sons of Late Dhruv Dev Sharma who was working with respondent-institute-NITTTR as Professor. He passed away on 02.07.2013 at PGI, Chandigarh. A lady named Viddyotma Sharma sent a marriage certificate to respondents and claimed service benefits of deceased Dhruv Dev Sharma. The petitioners filed civil suit before Civil Judge (Sr. Divn.), U.T. Chandigarh claiming that they are legal heirs of their father and Viddyotma Sharma has not solemnized marriage with deceased Dhruv Dev Sharma. The said suit is still pending. The petitioners preferred an application before Civil Court in the aforesaid suit seeking direction to respondents to release service benefits of Dhruv



Dev Sharma. The said application has been dismissed vide order dated 07.12.2023 passed by Civil Judge (Jr. Divn.), Chandigarh. The relevant extracts of the order dated 07.12.2023 are reproduced as under:

“Vide the present application the plaintiffs/applicants have sought direction to the concerned department i.e. defendant No.2 to release the service benefits of Dhruv Dev Sharma to the plaintiff being his nominee. However, this court is of the opinion that if any such direction to release the service benefits of deceased Dhruv Dev Sharma were passed at this stage, then it will tantamount to decreeing the suit of the plaintiff as vide the present suit, plaintiffs have sought relief of mandatory injunction directing the defendant No.2 to release the service benefits of deceased Dhruv Dev Sharma in their favour and have also sought relief of permanent injunction restraining the defendant No.2 from releasing the said benefits in favour of defendant No.1. This court cannot allow the plaintiff to get said order without giving an opportunity to the defendant to lead his defence contrary to the same as has been alleged by him in his pleadings. Hence, finding no merit in the application, same stands dismissed as this stage.”

3. The petitioners on one hand have filed civil suit claiming service benefits of their father and on the other hand have filed present writ petition for the same cause of action.

4. Mr. Gagandeep Goel, Advocate submits that petitioners cannot be deprived of their right to file writ petition despite filing civil suit.

5. This Court does not find any substance in the contention of the petitioners. No litigant can avail remedy of civil suit as well as writ petition for the same grievance and at the same time. Any order passed by this Court on merits would amount to adjudication of civil suit which is



pending before Civil Judge (Sr. Divn.) since 2015.

6. This Court is of the considered opinion that in view of pendency of civil suit for the relief claimed herein, the present petition is not maintainable.

7. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

01.07.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>