

2024:PHHC:156299



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

COCP-3146-2024 (O&M)
Decided on:-25.11.2024

Gurnek Singh

...Petitioner..

VS.

Vijoy Kumar Singh, Additional Chief
Secretary-cum-Financial Commissioner Cooperation,
Department of Cooperation, Govt. of Punjab and others

..Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Harjot Singh Bedi, Advocate for the petitioner.

Mr. Gurminder Singh, Advocate General, Punjab with
Mr. Gunjan Mehta, Addl. A.G., Punjab for respondents No.1, 2 & 5.

Mr. Ashwani Prashar, Advocate for respondents No.3, 4 and 6.

Mr. Amandeep Singh Manaise, Advocate for respondent No.7.

HARKESH MANUJA J. (Oral)

1. By way of present petition, prayer has been made for initiation of contempt proceedings against the respondents for the alleged willful non-compliance of order dated 08.12.2022 passed by this Court in CWP No.10460-2017. The operative part thereof is reproduced hereunder:-

“For the reasons afore-stated, the writ petition is allowed. The impugned orders dated 03.05.2017 (P-5) and 08.05.2017 (P-6), vide which the petitioner was removed from service, are set aside. The official respondents are directed to take the petitioner back in service and grant him all the consequential financial benefits, as admissible under the rules within a period of one month from the date of receipt of a copy of this order.”

2. Learned counsel for the petitioner contends that vide order dated 08.05.2017 passed by the Deputy Registrar, the petitioner was relieved/removed w.e.f. 14.12.2015 and the same was set aside by the Writ Court vide its order dated 08.12.2022; the same was even upheld in an intra-

court appeal vide order dated 16.05.2024. He also submits that on 12.04.2017, an application for withdrawal of his prayer made on 10.04.2017 for voluntary retirement was also submitted by the petitioner and thus, he never stood voluntarily retired and accordingly, as a consequence of the order passed by the Writ Court, the petitioner was to be taken back in service. Learned counsel thus submits that unless the petitioner was taken back in service, the prayer made by the petitioner on 10.04.2017 for his voluntary retirement could not have been accepted on 16.09.2024 and as such, the respondents by not taking him back in service were in complete violation of the orders passed by the Writ Court.

3. Separate replies filed on behalf of respondents No.1 and 2 in Court today are taken on record. Be tagged at appropriate place.

4. On the other hand, learned Advocate General, Punjab, on instructions, submits that the application dated 12.04.2017, seeking withdrawal of the request made by the petitioner on 10.04.2017 for his voluntary retirement was a forged & fabricated document and the same was in fact never submitted before the competent authority and rather, was a manipulation on the part of petitioner, in connivance with his co-employee namely, Harbans Lal Bhati and an inquiry on this aspect was already in progress. He further points out that in case, the petitioner had made any application on 12.04.2017, seeking withdrawal of his request for voluntary retirement, he would have definitely mentioned this fact in his writ petition, besides even making a prayer for release of his 03 months salary deposited by him in advance along with his application dated 10.04.2017. He further points out that in case, the petitioner did submit his application dated 12.04.2017, he would have never closed his EPF account on 18.04.2017. In

such circumstances, learned Advocate General, Punjab submits that there was no willful violation of order passed by the Writ Court.

5. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

6. In the present case, the plea of moving an application dated 12.04.2017 by the petitioner seeking withdrawal of his prayer for voluntary retirement is highly doubtful, as admittedly, no such plea was ever raised by him in his writ petition. Further, as pointed out by learned Advocate General, had the petitioner moved an application dated 12.04.2017 for withdrawal of his prayer qua voluntary retirement, there was no occasion for him to have completely closed his EPF account on 18.04.2017. Moreover, in case, the petitioner had withdrawn his prayer for voluntary retirement on 12.04.2017, it becomes incomprehensible as to why he never called upon the respondents to return his salary of 03 months as deposited by him in advance along with his application. Moreover, no reason is coming forth as to why, the petitioner did not claim joining after having withdrawal of his application for voluntary retirement. Still further, from the contents of the affidavit dated 25.11.2024 filed on behalf of respondent No.1, it can be traced out that filing of an application dated 12.04.2017, at the hands of the petitioner has been stated to be an act of connivance with one of the co-employee of the Bank, namely, Harbans Lal Bhatti against whom an inquiry has already been ordered/initiated under the relevant rules and thus at this stage, filing of an application dated 12.04.2017 being surrounded by suspicious circumstances, in the humble opinion of this Court, the present is not a fit case for initiation of contempt proceedings against the respondents

for not permitting the petitioner to rejoin in terms of Writ Court order as the relevant consideration of willful and deliberate non-compliance appears to be missing. As such, the present petition is dismissed. Rule stands discharged. However, it is made clear that nothing observed herein qua the withdrawal application dated 12.04.2017 shall be construed as an expression of opinion.

7. Pending applications, if any, stand disposed of.

25.11.2024

sonika

Whether speaking/reasoned:
Whether reportable:

(HARKESH MANUJA)

JUDGE

Yes/No
Yes/ No