

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

Sr. No.209

CWP-29098-2022

Date of decision: 12.12.2024

AMAR SINGH

..... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Rishi Lal, Advocate for the petitioner.

Mr. S.K.Sharma, Senior Panel Counsel for
respondents-UOI.

SURESHWAR THAKUR, J. (Oral)

OA No.1308 of 2011 was filed by the petitioner and the said OA was listed before the Tribunal on 02.02.2012. On the said date, the hereinafter extracted order was passed.

“Nobody appears for the petitioner and nobody appeared on last two hearings being 16.12.11 and 31.12.11.

The respondents have also filed reply wherein in para 7, it is pleaded that EME Records has processed the case of the petitioner for restoration of service element of pension, and the petitioner was advised to approach the PDA for restoration, of his pension.

May be that, in that view of the matter the petitioner did not appear. However, since nobody appeared, the petition is dismissed as default.”

Subsequently a miscellaneous application MA-249-2012 became filed in the OA (supra) seeking relief for the recalling of the order supra. However, the said application was dismissed through the drawing of order dated 12.03.2012, as enclosed in Annexure P-3, order whereof is extracted hereinafter.

“Heard learned counsel for the petitioner.

In our view, no sufficient ground has been made out for absence.

The averments are not supported by requisite material, apart from the fact that no explanation is given for the earlier absence, as noticed in the order. dated 02.02.2012. In that view of the matter, we do not find any force in the restoration petition. The same is, therefore, dismissed. ”

Readings of the order supra (Annexure P-3) discloses that, an application for restoring the OA (supra) to its original number, became dismissed, thereby the remedy to make a challenge thereto, was through the filing a writ petition before this Court. However, no writ petition became instituted at the instance of applicant before this Court, whereby a challenge was made to the passing of order Annexure P-3. Therefore, Annexure P-3 attained binding and conclusive effect.

Be that as it may, yet again MA-7945-46/2014 became instituted in the OA supra, wherein the petitioner again asked for relief for restoring the OA to its original number. On the said application, order extracted hereinafter was passed:

“Heard the learned counsel for the parties and perused the record.

This is an application for restoration of OA No. 1308 of 2011 with the prayer that the said OA may be heard and decided.

We find that the earlier petition was dismissed in default and thereafter an application to recall the said order was filed which too has been dismissed vide order dated 12th March, 2012.

In this view of the matter, so long as the order dated 12th March, 2012 survives, we find no ground to restore the OA to its original number.

The application is dismissed accordingly. ”

Now a challenge is also made to the order (supra) Annexure P-5, whereby the applications for restoring the OA supra to its original number, thus became dismissed. Since the order Annexure P-3 for the reasons (supra) has acquired finality, as the same remained unchallenged before this Court. Consequently the effect of Annexure P-3 acquiring binding and conclusive effect, is but that, no subsisting rights became subsequently vested in the present petition, to re-access the Tribunal concerned, rather to ask for restoration of OA supra to its original number.

Resultantly therebys, the passing of impugned order as enclosed in Anneuxre P-5 does not suffer from any infirmity and as such the said impugned order is required to be upheld.

In the wake of supra after confirming the impugned order, the instant petition is dismissed being not maintainable.

(SURESHWAR THAKUR)
JUDGE

(KIRTI SINGH)
JUDGE

12.12.2024

Kavita

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No