

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

CWP-29846-2024

Date of Decision: 06.11.2024

SUKHWINDER SINGH

...Petitioner

Versus

UNION OF INDIA AND OTHERS

...Respondents

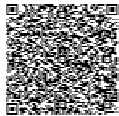
CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present:- Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Ms. Bhavna Datta, Sr. Panel Counsel
for respondent(s) /UOI.

SURESHWAR THAKUR, J. (Oral)

1. The present petition is directed against the impugned order recorded on 07.10.2024 upon MA 2578 of 2023 in OA 177 of 2020 wherebys the learned Armed Forces Tribunal, Regional Bench, Chandigarh, proceeded to record a dismissal order upon the application filed for the restoration of the case to its original number, post the supra original application becoming dismissed in default.
2. A reading of the impugned order, discloses that the learned AFTC concerned, took to dismiss the application for restoration of OA supra, on the ground, that no case was made out, by the applicant in explication of the non appearance of the counsel or of the applicant, on the relevant dates, whereon, the original application became dismissed for default or for non-prosecution.
3. Learned counsel appearing for the petitioner submits, that on the dates mentioned in the impugned order rendered by the AFTC concerned, on 30.10.2023 upon OA supra, there was a valid forbiddance against the petitioner or his counsel recording their respective appearances



before the AFTC concerned. He submits that said valid deterrences arose from the fact and that on the said dates, the Courts were closed on account of the then prevailing pandemic and only urgent matters were taken up then. Since the original application was not an urgent matter, therefore, the same was taken up by the Registrar concerned.

4. Learned counsel for the respondent vehemently contests, the said argument on the ground that since the said facts are not detailed in the application filed under Order 9 Rule 9 CPC, therebys no relief can be granted to the present petitioner.

5. Be that as it may, if as a matter of fact on the said dates, the Courts were closed on account of then there be an ongoing pandemic and that then only the urgent matters were taken up, therebys even if the said fact(s) remain omitted to be mentioned in the application filed under Order 9 Rule 9 CPC, yet the said omission, to the considered mind of this Court, rather was not required to be working against the present petitioner, on account of the fact that it was an evident fact and judicial notice then was to be taken thereof.

6. In consequence, the impugned order is quashed and set-aside, and OA bearing No.177 of 2020 is ordered to be restored to its original number. Subsequently, learned AFTC concerned is directed to make a re-hearing upon the OA supra besides is also directed to make a lawful decision upon the same within six months from today, but after hearing all the affected parties.

7. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

November 06, 2024

Mahima

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No