



CWP-10697-2023

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

(209)

CWP-10697-2023

Date of Decision : February 18, 2025

Nishant

.. Petitioner

Versus

**District Magistrate-cum- President Appellate Maintenance Tribunal,
Hisar and others**

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Jain, Advocate, for the petitioner.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

None for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Despite *dasti* notice, no one has appeared on behalf of respondent No.3, which shows that respondent No.3 is not interested in pursuing the present writ petition. Hence, respondent No.3 is proceeded against ex parte.

2. Learned counsel for the petitioner submits that an order dated 01.04.2022 (Annexure P-6) had been passed by the Tribunal by which, the claim raised by the respondent No.3-senior citizen was rejected against which order, an appeal was preferred by the senior citizen, copy of which has been appended as Annexure P-7 and vide impugned order dated 28.04.2023 (Annexure P-8), by recording certain facts and observations, the Appellate Authority has set aside the order passed by the Tribunal dated 01.04.2022 (Annexure P-6) and has directed the Tribunal to pass a fresh order keeping in view the observations made in the appellate order dated 28.04.2023 (Annexure P-8), which is arbitrary and illegal.

3. Learned counsel for the petitioner submits that the Appellate

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Authority has no jurisdiction to remand the case back to the Tribunal to decided afresh as the Appellate Authority is to decide the issue either in favour of the appellant or in favour of the respondent by giving due reasons to support the conclusion.

4. Learned counsel for the petitioner further submits that the said issue came up for consideration before this Court in ***CWP No.22898-2024 titled as Kulwant Singh vs. Additional District Magistrate-cum- Appellate Tribunal, Amritsar and others, decided on 13.02.2025*** and keeping in view the settled principle of law noticed therein, similar order of the Appellate Authority passed therein remanding the case back to the Tribunal was set aside with direction to the Appellate Authority to pass order on merits in accordance with law on the appeal preferred.

5. Keeping in view the facts and circumstances of the present case coupled with the fact that the issue raised in the present case is covered by the decision of this Court in ***Kulwant Singh's case (supra)***, the impugned order dated 28.04.2023 (Annexure P-8) is set aside and the case is remanded back to the Appellate Authority to decide the same afresh on merits by passing appropriate speaking order giving due reasons for the conclusion to be arrived at.

6. Parties are directed to appear before the Appellate Authority on 18.03.2025.

7. The present writ petition is allowed in above terms.

February 18, 2025*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No