



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

120

LPA-2802-2025

Date of Decision : **September 16, 2025**

FOOD CORPORATION OF INDIA AND OTHERS

.....Appellants

VERSUS

AMIT KUMAR

.....Respondent

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present : Mr. Gurminder Singh, Sr. Advocate assisted by
Mr. K.K.Gupta, Advocate for the appellants.
Mr. D.S.Patwalia, Sr. Advocate assisted by
Mr. Ayhush Gupta, Advocate for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal arises out of an order passed by the learned Single Judge on 03.09.2025, the operative portion whereof reads as under:-

“In the meantime the operation of the orders dated 17.05.2022 (Annexure P-17), 23.11.2022 (Annexure P-20) and 06.06.2025 (Annexure P-25) shall remain stayed till next date of hearing. In case he has been ousted from the services shall be put back into service forthwith till the next date of hearing without any failure.

It is also made clear that if the interim directions is not complied with, Regional Manager FCI, Punjab Region shall remain present in the Court.”

2. The primary submission raised on behalf of the appellants is that the interim direction issued by the learned Single Judge has the trapping of a ‘judgment’ in as much as the order of compulsory retirement passed in the year 2022 has not only been stayed but a direction has been issued to put back the respondent in service, which could have been passed only if the writ

petition is allowed finally. He submits that law is settled that such direction at the interim stage could not have been issued which could have otherwise been passed only at the stage of final disposal.

3. Mr. Patwalia, learned Senior Advocate appearing for the respondent, however, raised objection to the maintainability of this appeal on the ground that the appeal under Clause 10 would not be maintainable arising out of an interim order. He also submits that the stay of the punishment order would not amount to grant of final hearing. He has taken us through the orders and the proceedings to contend that there existed no material on record to proceed against the respondent on account of which the order has been passed by the learned Single Judge.

4. Learned Sr. counsel for the appellants, however, points out that in respect of the charge of bribery, the respondent was not only arrested but a charge-sheet has also been filed against him and the matter is pending before the Court. He also submits that the order of compulsory retirement has been interfered with by the learned Single Judge with the direction to put back the respondent into service. Further direction has been issued that if the interim direction is not complied, the Regional Manager, FCI shall remain present in the Court. He contended that such orders would qualify to be a 'judgment' against which an appeal would lie. It is also argued on behalf of the appellants that the interim prayer in the writ petition was only to stay the order and there was no prayer for re-instatement as has been allowed by the learned Single Judge.

5. We have heard the learned counsel for the parties and have perused the material available on record.

6. The law with regard to maintainability of a Letters Patent Appeal arising out of an interim order is by now well settled. The appeal under Clause 10 would be maintainable only against a 'judgment'. An appeal would ordinarily not lie against an order unless such order qualifies to be a 'judgment', therefore, the question that arises before us is as to whether the order of the learned Single Judge in the facts of the case qualifies to be a 'judgment' or not?

7. Learned counsel for the appellants contends that the relief which could have been granted only at the stage of final hearing ought not to be allowed at the interim stage. Reliance is placed on the 'judgment' of the Hon'ble Supreme Court in the case of **State of UP and others Vs. Sandeep Kumar Balmiki, 2009 (17) SCC 555**, wherein the Court has observed as under:-

"Para 6. We have heard Mr. S.R. Singh, learned senior counsel appearing for the State of UP and Mr. P.S. Patwalia, learned senior counsel appearing on behalf of the respondents. Having heard the learned senior counsel for the parties and after considering the impugned orders as well as the nature of relief claimed in the writ petition by the respondents, we are of the view that the High Court had fallen in grave error in staying the order of termination during the pendency of the writ petition. In our view, the interim order granted by the High Court staying the order of termination could not be passed at this stage in view of the fact that if such relief is granted at this stage, the writ petition shall stand automatically allowed without permitting the parties to place their respective cases at the time of final hearing of the writ petition. In this case also, the appellants have not yet filed counter affidavit to the writ petition of the respondents.

Para 7. That being the position and in view of the fact that the final relief could not be granted at the interim stage, we set aside the impugned order and vacate the interim order passed by the High Court.”

8. Mr. Patwalia, appearing for the respondent places reliance upon the judgment of the Hon’ble Supreme Court in **M/s Shree Chumandi Mopeds Ltd. Vs. Church of South India Trust Association, Madras, 1992 (3) SCC 1** to submit that mere grant of interim relief would not amount to grant of final relief, as the doctrine of eclipse alone would get attracted in such a case. He also places reliance upon the judgment of the Constitution Bench of the Hon’ble Supreme Court in **High Court Bar Association, Allahabad Vs. State of U.P. & Ors., 2024(2) SCC (L&S) 133** to submit that the powers of a writ Court for the purpose of grant of interim relief is unbridled and, therefore, no interference ought to be made in exercise of such powers. He also places reliance upon the judgment of the Hon’ble Supreme Court in **Midnapore Peoples Co-op. Bank Ltd. and Ors. Vs. Chunilal Nanda and Ors., 2006(3) SCT 115** and the Division Bench judgment of the Telangana High Court in **Sushma B. Vs. The National Fisheries Development Board and others, Writ Appeal No. 550 of 2025, decided on 07.05.2025.**

9. In the light of the judgments referred to above, it is not in issue that Letters Patent Appeal under Clause 10 would lie before a Division Bench of this Court from a ‘judgment’ of the learned Single Judge. What would constitute a ‘judgment’ is also no longer res-integra. In paragraphs No.15 and 16 of the judgment in **Midnapore Peoples, Co-op. Bank’s** case (supra), the Hon’ble Supreme Court has clarified that where the orders passed affect the vital and valuable rights and obligations of the parties and affects the matters

of movement and interlocutory order may fall in the category of a 'judgment'. It is in this light that the issue needs to be examined here.

10. In the facts of this case disciplinary enquiry was initiated against the respondent, which has resulted in passing of an order of compulsory retirement by way of punishment. The order of compulsory retirement was passed in the year 2022. It transpires that in an earlier round of litigation, the matter was relegated to the Board in exercise of its review jurisdiction. The competent authority has rejected the review in the year 2025. The order of compulsory retirement, as affirmed in the appeal and review was the subject matter of challenge before the learned Single Judge. It is undisputed that the respondent-petitioner was out of employment for the last 3 years. Whether or not the order of compulsory retirement could have been passed in the facts of the case was an aspect which required determination. The learned Single Judge has not only stayed the order of compulsory retirement but has also issued a direction to put back the respondent-petitioner into service, forthwith. In our considered view such order cannot be considered as purely an interlocutory order. It affects the matters of movement and vital rights of the parties inasmuch as which could be allowed at the final stage has been granted to the petitioner at the interim stage. It is otherwise settled that orders which could be passed at the final stage cannot be passed at the interim stage. We are, therefore, of the view that the order passed by the learned Single Judge clearly qualifies to be a 'judgment' against which Letters Patent Appeal would be maintainable.

11. Which order can be termed as a 'judgment' in the context of Letters Patent Appeal came to be examined by the Hon'ble Supreme Court in

Shah Babulal Khimji Vs. Jayaben D. Kania and another, 1981 (4) SCC

8, wherein the Court observed as under:-

“112. Thus, under the Civil Procedure Code, a judgment consists of the reasons and grounds for a decree passed by a court. As a judgment constitutes the reasons for the decree it follows as a matter of course that the judgment must be a formal adjudication which conclusively determines the rights of the parties with regard to all or any of the matters in controversy. The concept of a judgment as defined by the Civil Procedure Code seems to be rather narrow and the limitations engrafted by sub-sec (2) of Section 2 cannot be physically imported into the definition of the word 'Judgment as used in Clause 15 of the Letters Patent because the Letters Patent has advisedly not used the term 'order or decree' anywhere. The intention, therefore, of the givers of the Letters Patent was that the word 'Judgment should receive a much wider and more liberal interpretation than the word "Judgment used in the Civil Procedure Code. At the same time, it cannot be said that any order passed by a trial Judge would amount to a judgment; otherwise there will be no end to the number of orders which would be appealable under the Letters Patent. It seems to us that the word 'Judgment' has undoubtedly a concept of finality in a broader and not a narrower sense. In other words a judgment can be of three kinds

(1) A final judgment-A judgment which decides all the questions or issues in controversy so far as the trial Judge is concerned and leaves, nothing else to be decided. This would mean that by virtue of the judgment, the suit or action brought by the plaintiff is dismissed or decreed in part or in full. Such an order passed by the trial Judge indisputably and unquestionably is a judgment within the meaning of the Letters Patent and even amounts to a decree so that an appeal would lie from such a judgment to a Division Bench.

(2) A preliminary judgment-This kind of a judgment may take two forms-where the trial Judge by an order dismisses the suit without going into the merits of the suit but only on a preliminary objection raised by the defendant or the party opposing on the ground that the suit is not maintainable. Here also, as the suit is finally decided one way or the other, the order passed by the trial judge would be a judgment finally deciding the cause so far as the trial Judge is concerned and, therefore, appealable to the larger Bench.

(b) Another shape which a preliminary judgment may take is that where the trial Judge passes an order after hearing the preliminary objections raised by the defendant relating to maintainability of the suit, e. g., bar of jurisdiction, res judicata, a manifest defect in the suit, absence of notice under Section 80 and the like, and these objections are decided by the trial Judge against the defendant, the suit is not terminated but continues and has to be tried on merits but the order of the trial Judge rejecting the objections doubtless adversely affects a valuable right of the defendant who, if his objections are valid, is entitled to get the suit dismissed on preliminary grounds, Thus, such an order even though it keeps the suit alive, undoubtedly decides an important aspect of the trial which affects a vital right of the defendant and must, therefore, be construed to be a judgment so as to be appealable to a larger Bench.

(3) Intermediary or interlocutory judgment - Most of the interlocutory orders which contain the quality of finality are clearly specified in clauses (a) to (w) of Order 43, Rule I and have already been held by us to be judgments within the meaning of the Letters Patent and, therefore, appealable. There may also be interlocutory orders which are not covered by Order 43, Rule 1 but which also possess the characteristics and trappings of finality in that, the orders

may adversely affect a valuable right of the party or decide an important aspect of the trial in an ancillary proceeding. Before such an order can be a judgment the adverse effect on the party concerned must be direct and immediate rather than indirect or remote.....

(Emphasise supplied by us)

12. In **Midnapore Peoples, Co-op. Bank Ltd. and others Vs. Chunilal Nanda and ors., 2006(3) SCT 115**, the issue has been examined by the Hon'ble Supreme Court in the context of a challenge laid to the order passed by the Appellate Court in exercise of powers under Clause 10 of the Letters Patent Appeal. In paragraph Nos. 15 and 16, the Court has observed as under:-

"15. The above principle was reiterated in Mithailal Dalsangar Singh v. Annabai Devram Kini (2003 (10) SCC 691] and Subal Paul v. Malina Paul. 2003(2) RCR (Civil) 234: (2003(10) SCC 3611. In the latter case, this Court held:

"While determining the question as regards clause 15 of the Letters Patent, the court is required to see as to whether the order sought to be appealed against is a judgment within the meaning thereof or not. Once it is held that irrespective of the nature of the order, meaning thereby whether interlocutory or final, a judgment has been rendered, clause 15 of the Letters Patent would be attracted.... Clause 15 of the Letters Patent confers a right of appeal on a litigant against any judgment passed under any Act unless the same is expressly excluded. Clause 15 may be subject to an Act but when it is not so subject to the special provision the power and jurisdiction of the High Court under clause 15 to entertain any appeal from a judgment would be effective."

16. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:

- (i) Orders which finally decide a question or issue in controversy in the main case.*
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.*
- (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.*
- (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.*
- (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.*

The term 'judgment' occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in section 2(9) CPC and orders enumerated in Order 43 Rule 1 of CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter. which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, "judgments for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not 'judgments' for purpose of filing appeals provided under the Letters Patent."

(emphasise supplied by us)

13. When the order of the learned Single Judge is analysed in the context of the principles laid down in **Shah Babulal Khimji's case** (supra) and **Midnapore Peoples, Co-op. Bank Ltd.'s case** (supra), we have no hesitation in coming to the conclusion that the order of the learned Single Judge would qualify to be a 'judgment' within Clause 10 of the Letters Patent Appeal.

14. We are further of the view that such relief could not have been granted at the interim stage without even inviting any response from the respondent. As such the order of the learned Single Judge cannot be sustained. Consequently, this Letters Patent Appeal succeeds and is allowed. The order passed by the learned Single Judge on 03.09.2025 is set-aside.

15. In the facts of the case, we record the statement of the learned counsel for the appellants that the response in the matter pending before the learned Single Judge shall be positively filed within a period of one week from today. The petitioner shall also be at liberty to file his replication within a short period, if required. We request the learned Single Judge to take up the matter at his Lordship's earliest convenience after exchange of affidavits.

16. Disposed of.

17. All pending application(s), if any, also stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

September 16, 2025

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(ROHIT KAPOOR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No