

2026:PHHC:008102



106

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

**CWP-2101-2021 (O&M)
DECIDED ON: 21.01.2026**

ANIMESH ROY

.....PETITIONER(S)

VERSUS

UNION OF INDIA AND ANR

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.K.Gupta, Advocate for the petitioner(s)
Mr. Arun Gosain, Advocate with
Ms. Swati Arora, Advocate for respondent No. 1.
Mr. Alankrit Bhardwaj, Advocate for respondent No. 2.

SANDEEP MOUDGIL, J (ORAL)

Prayer

This writ petition has been filed under Articles 226/227 of the Constitution of India seeking quashing the order dated 24.09.2019 (Annexure P-19) whereby the respondent no. 1 in spite of initially constituting the Tribunal of Arbitration as per Section 30 of the NIPER Act, 1998, now refused to constitute the Tribunal of Arbitration to decide the disputes between the petitioner and the respondent no. 2- Institute, on the grounds which are legally not sustainable, with a further direction to the respondents to constitute the Tribunal of Arbitration under Section 30 of the NIPER Act, 1998 for deciding the disputes between the petitioner and the respondent no. 2-Institute with regard to re-appointing the

petitioner instead of re-instating on the post of Scientist (Grade-II), as per the report of the Ombudsmen / Review Committee constituted by the Board of Governors (BOGs) of the respondent no. 2 vide its resolution passed vide Agenda Item No. 49.1 in its 49th Meeting (Annexure P-8) which was resolved to be binding on the parties.

Brief Facts

The petitioner is a highly qualified researcher holding M.Sc. (Organic Chemistry) and Ph.D. (Natural Product Chemistry), who served as Research Associate at CFTRI, Mysore under Council of Scientific & Industrial Research (CSIR) and thereafter as Senior Research Associate under the Scientist's Pool Scheme of CSIR at the respondent Institute. On joining, a new research area was initiated by the Institute based on the petitioner's work, leading to the first patent of the Institute. Upon completion of the CSIR assignment, the petitioner was appointed as Scientist (Grade-II) on contractual basis with service conditions governed by the NIPER Statutes and CCS Rules, carrying benefits akin to permanency and extendable subject to review.

During service, the petitioner consistently received favourable performance gradings. However, the petitioner alleged that the Head of Department, Dr. U.C. Banerjee, plagiarised the petitioner's research work and published it in his own name. Complaints made by the petitioner were not acted upon, instead adverse ACR entries including doubtful integrity were allegedly recorded by Dr. Banerjee without communication to the petitioner and were relied upon to deny career progression. Thereafter, Dr. Banerjee also became a member of the Contract Review Committee, which terminated the petitioner's service without notice, without considering performance, and in violation of principles of natural justice.

The petitioner's challenge to their termination, pursued through departmental representations and prior writ proceedings, culminated in an appeal before the Chairman, Board of Governors. This appeal was referred to an Ombudsman/Review Committee, which determined the termination was unjustified and recommended quashing the relieving order with retrospective reinstatement. While the Board of Governors purportedly accepted these findings, the respondents did not reinstate the petitioner; instead, they issued a fresh appointment. This action effectively denied the petitioner continuity of service and its attendant consequential benefits. Despite a clear statutory mandate for arbitration under Section 30 of the NIPER Act, the respondents, after initially consenting, ultimately refused to constitute the Tribunal of Arbitration. Aggrieved by this refusal and the denial of service benefits, the petitioner has approached this Court.

Contentions

Learned counsel for the petitioner

The learned counsel appearing on behalf of the petitioner contends that the impugned termination is vitiated at its very inception as the action is a classic instance of colourable exercise of power actuated by mala fides and in patent violation of the governing statutory framework. It is urged that the termination was triggered at the behest of an interested superior officer whose own act of plagiarism had been specifically brought on record by the petitioner, however despite the gravity of that allegation, no inquiry was ever instituted against the said superior instead, the petitioner, who had raised the issue, became the subject of adverse action.

It is further argued that reliance upon adverse entries in the petitioner's Annual Confidential Reports is wholly impermissible in law. These

entries were never communicated to the petitioner, thereby depriving him of any opportunity to represent against them as uncommunicated adverse remarks are non est for the purpose of forming the basis of punitive or stigmatic action. It is further submitted that this is particularly significant as the petitioner's overall performance record was otherwise consistently graded favourably over the years. Selective reliance upon undisclosed adverse material, in the face of an otherwise creditable service record, is asserted to be manifestly arbitrary.

Counsel then draws attention to the findings of the Ombudsmen/Review Committee, which, after a detailed and independent examination of the entire matter, unequivocally held the termination to be illegal and recommended reinstatement of the petitioner. In such circumstances, the subsequent issuance of a "fresh appointment" order, in lieu of reinstatement, is described as a patent illegality. Once the competent authority accepted the finding that the termination was unlawful, the only legal consequence, it is submitted, was restoration of the status quo ante. By offering a fresh appointment instead, the respondents have, in effect, nullified continuity of service, seniority, and accrued benefits.

Lastly, it is contended that the refusal of the authorities to constitute a Tribunal of Arbitration under Section 30 of the NIPER Act, despite an earlier decision to do so, is ex facie arbitrary and contrary to statute.

On behalf of respondent No.1- UOI

Learned counsel for respondent No. 1 submits that the petitioner's request for constitution of a Tribunal of Arbitration under Section 30 of the NIPER Act, 1998 was rightly declined as the said provision applies only to disputes arising out of contractual employment. It is contended that pursuant to the

amendment of Statute 6 dated 03.07.2014, contractual appointments in NIPER, Mohali were abolished and the petitioner's services stood regularised with effect from 01.09.2011, rendering the arbitration mechanism redundant.

It is further submitted that the petitioner's case was considered by the Board of Governors on multiple occasions and, pursuant to its decision in the 56th meeting, the petitioner was granted prospective placement, which he accepted and joined and the petitioner had earlier availed terminal benefits upon non-renewal of his contract in 2005.

Learned counsel contends that since the regularisation of the petitioner was effected on the recommendation of a High Level Committee in accordance with the amended Statutes, and therefore no surviving contractual dispute exists requiring reference to arbitration. The impugned communication dated 24.09.2019 (Annexure P-19) is thus urged to be lawful and does not call for interference by the court.

On behalf of respondent No.2- NIPER

Learned counsel appearing on behalf of respondent No. 2/Institute contends that the writ petition is not maintainable as it is barred by *res judicata*, as the petitioner has earlier agitated the same issues in writ proceeding in CWP-17748-2005 and CWP-14079-2006 which were withdrawn or dismissed.

With regards to the claim of the petitioner under the Old Pension Scheme, it is submitted that the petitioner was engaged on a fixed-term contractual basis and, upon evaluation by the Contract Renewal Committee, his contract was not renewed due to unsatisfactory performance, strictly in accordance with the terms of appointment and the NIPER Statutes.

It is further argued that the petitioner was subsequently granted a fresh opportunity by way of prospective reappointment vide letter dated 30.08.2011 (Annexure P-13) pursuant to the decision of the Board of Governors, which he accepted and joined in the same year. Following the statutory amendment in 2014, his services were regularised in accordance with the prescribed procedure. Since the year 2011, the engagement of the petitioner was a fresh appointment governed by the New Pension Scheme, the petitioner is not entitled to old pension or GPF benefits.

Heard.

Analysis

The limited challenge in the present writ petition is to the communication dated 24.09.2019 (Annexure P-19), whereby respondent No.1 declined the request for constitution of a Tribunal of Arbitration under Section 30 of the NIPER Act, 1998. The petitioner seeks a mandamus directing constitution of such Tribunal for adjudication of disputes arising out of his alleged non-reinstatement and consequential service benefits.

At the outset, it must be noted that the jurisdiction of this Court under Articles 226/227 of the Constitution of India is predicated upon the submission of all necessary documents for the proper adjudication of the matter. A writ court does not proceed on assumptions and the foundational facts and the material forming the basis of the impugned action must be placed on record so as to enable effective judicial scrutiny. Reliance may be placed on the ratio laid down by the apex court in **“Bharat Singh v. State of Haryana 1988 INSC 276”**, wherein it was observed that,

“13. As has been already noticed, although the point as to profiteering by the State was pleaded in the writ petitions before the

High Court as an abstract point of law, there was no reference to any material in support thereof nor was the point argued at the hearing of the writ petitions. Before us also, no particulars and no facts have been given in the special leave petitions or in the writ petitions or in any affidavit, but the point has been sought to be substantiated at the time of hearing by referring to certain facts stated in the said application by HSIDC. In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. In this context, it will not be out of place to point out that in this regard there is a distinction between a pleading under the Civil Procedure Code and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.”

In the present case, although the petitioner asserts that a request was made for constitution of a Tribunal of Arbitration under Section 30 of the NIPER Act, 1998, the documents forming the basis of such request have not been submitted before this court. In the absence of such foundational pleadings and supporting documents, the petitioner has straightaway assailed the order dated 24.09.2019 (Annexure P-19). This Court cannot adjudicate upon the legality or otherwise of the refusal to constitute a Tribunal of Arbitration in a factual vacuum. Judicial review of administrative action necessarily depends upon examination of the underlying record, where the very basis of the request is not before the Court, no effective determination can be undertaken.

In view of the discussion made hereinabove, this court is of the opinion that since the documents on the basis of which the request for constitution of the Tribunal of Arbitration under Section 30 of the NIPER Act, 1998 are fundamental for the adjudication of the present matter and in the absence of such foundational pleadings and documents this court cannot interfere under the writ jurisdiction.

Consequently, the petition lacks the cogent material necessary to evaluate the impugned communication and is hereby, dismissed for want of an adequate record.

In view of the above, the present writ petition is dismissed.

(SANDEEP MOUDGIL)
JUDGE

21.01.2026

Sham

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No