
(2001) 11 P&H CK 0092

In the Punjab And Haryana At Chandigarh

Case No : Civil Original Side R.A. No. 122-CII of 2000 in Civil Original Contempt
Petition No. 232 of 2000

Dharamvir

APPELLANT

Vs

Harbaksh Singh

RESPONDENT

Date of Decision : 29-11-2001

Acts Referred:

Citation : (2002) 2 RCR(Criminal) 55

Hon'ble Judges : Bakhshish Kaur, J

Advocate : Mrs. Abha Rathore, Advocate. Mr. Ajay Tewari, Advocate., Advocates
for appearing Parties

Judgement

Bakhshish Kaur, J.

1. S/Shri Dharamvir and others had filed a contempt petition bearing COCP No. 232 of 2000 under Section 11 read with Section 12 of the Contempt of Courts Act (in short 'the Act'), as according to them, the respondents had disobeyed the order passed by this Court in Civil Writ Petition No. 18474 of 1996 dated 1.6.1999 and the order passed in L.P.A. No. 866 of 1999 dated 30.9.1999. The petition was disposed of on November 22, 2000. Since no case was made out to initiate contempt proceedings against the respondents, therefore, the same was dismissed and rule against the respondent was discharged.

2. The petitioners have again approached this Court by filing this review application under Section 114 of the Code of Civil Procedure, seeking review of the order dated November 22, 2000 passed in COCP No. 232 of 2000 on the ground that the respondents have misrepresented the facts in their reply to the contempt petition.

3. It is averred that eligibility and suitability of a candidate has to be adjudged on the basis of the rules/criterion/instructions which exist at the time when the post falls vacant. In the instant case, the post of waiter trainee had fallen vacant in January, 1998 therefore, the petitioners were eligible as per rules or

instructions in January, 1998. No direction was given in the order passed in Civil Writ Petition or the Letters Patent Appeal to formulate any new criterion.

4. The respondents have resisted this application by raising certain preliminary objections that the application does not fulfil the requirement of JUDGMENT 47 Rule 1 CPC and on this short ground alone, it is required to be dismissed. Further, it is pleaded, inter alia, that in a similar case, another trainee like the petitioners Virender Singh had also filed CWP No. 16265 of 1998 when his training was discontinued. His petition was disposed of on 12.1.2000 on the statement of counsel for the Haryana Tourism that his case would be considered for appointment to one of the newly created posts of Counter Incharge. Thereafter, by applying the same criteria as is being challenged herein, the said Varinder Singh was not selected. He then filed C.M. No. 15386 of 2000 alleging that persons junior to him were appointed as Counter Incharge but he was not considered and appointed. In this application, notice of contempt vide order dated 19.12.2000 was issued against Shri Vijay Vardhan, Managing Director, Haryana Tourism. Thereafter, Varinder Singh was given another chance to appear for the written test/interview as per the same criteria which is impugned in the present case. Varinder Singh then filed C.M. No. 1026 of 2001 challenging the said criteria. The Division Bench of this Court passed order dated 14.3.2001 recording satisfaction that the Corporation and the Managing Director were guilty of contempt of Court and gave fresh notice to show cause for 22.3.2001. The order dated 14.3.2001 was challenged by way of SLP No. 6259 of 2001 which came up for hearing in the Hon'ble Supreme Court on 3.4.2001 when notice was issued and further proceedings in this Court were stayed. Copy of the order is Annexure R1. In view of the order passed by the Hon'ble Supreme Court, the matter before this Court was adjourned sine die. Even in this case, review is being sought on the ground that the criteria is illegal, therefore, this review application is liable to be dismissed.

5. I have heard Mrs. Abha Rathore, learned counsel for the applicant and Shri Ajay Tewari, learned counsel for the respondent.

6. Mrs. Abha Rathore, learned counsel for the petitioner contended that the respondents have misrepresented the facts and it amounts to committing fraud upon the Court and abuse of the process of the Court, therefore, the Court has inherent powers to recall fraud. To support her argument, she has placed reliance on *Indian Bank v. Satyam Fibres (India) Pvt. Ltd.*, 1996(5) SCC 550. She has also placed reliance on *Surjit Singh and others v. Union of India and others*, 1997(10) Supreme Court Cases 592 on the point that where there is patent error, the Court has jurisdiction to review its order.

7. There is no dispute to the proposition of law that if there is a patent error and the same is brought to the notice of the Court, then the Court is required to review its order. In *Surjit Singh and others* case (supra), it is observed that when a patent error is brought to the notice of the Tribunal, the Tribunal is duty bound to correct with grace its mistake of law, by way of the review of its orders/

directions.

8. The facts of the aforesaid cases are different from the facts of case in hand because in the given case, the order which is sought to be reviewed has been passed in a contempt petition and it is well settled that the proceedings in the contempt petition are quasicriminal in nature. Such an order of punishment is subjected only to an appeal before the Supreme Court under Section 19 of the Contempt of Courts Act. It cannot be reviewed by the Court passing the order holding the contemnor guilty or otherwise, dismissing the contempt petition. In this regard reliance is placed on T. Sudhakar Prasad v. Govt. of A.P. and others, 2000(1) Supreme Court Cases 516 : 2001(1) SCT 354 (SC) .

In view of the aforesaid, since this Court cannot entertain an application for review of the order passed in contempt petition, therefore, this review application is dismissed being not maintainable.