

(2013) 04 P&H CK 0129

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-6830 of 2013

Gulab Singh Narwal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-04-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2013) 2 RCR(Criminal) 894

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Pankaj Nanhera, for the Appellant;

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—This is a petition u/s 482 Cr.P.C. wherein a prayer has been made for issuance of appropriate directions to the respondents for registration of FIR. For the purposes of reference the prayer as made in the petition is extracted hereunder:-

It is, therefore, most respectfully prayed that this Hon''ble High Court may kindly issue direction to the public respondents especially to respondent No. 1 to 7 to register an FIR under various provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, Prevention of Corruption Act, Indian Penal Code etc. against private respondents No. 8 to 14 and hand over investigation to any independent agency which may be CBI for proper and fair investigation of the case in which the petitioner has been deprived of his fundamental and constitutional rights which lead to physical, social, mental and financial injury, irreparable loss and agony in the hands of private respondents as they have misused their legitimate public authority by committing breach of trust, forgery, fraud etc., in the interest of justice;

AND

It is further prayed for issuance of direction to the respondents No. 3 and 4 to provide adequate protection to the petitioner and his family as they are apprehending their life and liberty against the act of private respondents, in the interest of justice;

AND/OR

It is further prayed to issue any other appropriate order or direction which this Hon"ble Court may deem fit and proper in the facts and circumstances of the present case.

The petitioner proclaims that he is a highly educated officer with numerous professional degrees to his credit, the details of which have been given in para 3 of the petition. The petitioner is working as a civil engineer in irrigation department even though he claims that he ought to have been given an assignment in mechanical engineering considering his qualification and credentials. It is further his case that he was appointed as a Class-I Officer after successfully clearing the competitive exam and was made to work against general category even though he belongs to the reserve category.

2. The petitioner goes on to elaborate in his petition that he is governed by the Haryana Service of Engineers, Class-I, Public Works Department (Building and Roads Branch), (Public Health Branch) and (Irrigation Branch) Respectively Act, 1995. According to him, this Act is an umbrella act governing the service conditions of all the three branches of PWDs i.e. Building and Roads, Public Health and Irrigation Branch.

3. The aforesaid Act has since been repealed and three separate Acts have been enacted. The grievance of the petitioner is that in all the Acts except the one pertaining to his department the provision governing the promotion contemplates that members of the service of respective cadre shall be eligible for promotion on the basis of degree required for initial appointment to any of the post within their respective cadres but one condition has been surreptitiously introduced with a mischievous intent by the legislating authority in the irrigation department and member of the service of respective cadre shall be eligible for promotion on the basis of degree required for initial appointment, whereas this condition does not exist in other two branches referred to. According to the petitioner, this particular condition has been designed in order to deprive him of his right to become Engineer-in-Chief in future.

4. The petitioner levels serious allegations against the elected representatives who have in a malicious manner introduced the aforesaid conditions arbitrarily and by abusing their public authority to deprive the petitioner of the legitimate and genuine benefits which he is entitled to in future. He further goes on to state that the State Government in its meeting under the Chairmanship of respondent No. 8 along with other private respondents took the following decision on 18.11.2008:-

- i) the Building and Roads Department has since maintained separate seniority for different cadre therefore, the new Act will have separate seniority;
- ii) the Public Health Department will have a separate seniority of different cadre; and
- iii) the Irrigation Department will have a common seniority/cadre by taking into consideration the peculiar requirement of Irrigation Department.

5. According to him, the aforesaid decision pertaining to the Irrigation Department which is at variance with the decision applicable to the Public Health and the Building and Roads Department are also result of deep-rooted malice of the public authority as is also the repeal of 1995 Act. The State Govt. in order to give effect to its designs enacted legislation on 25.10.2010 separating cadres even though the separation of cadres is not available on record till date. The petitioner thus prays that a huge fraud has been committed by all the respondents collectively. A prayer for initiation of an inquiry by the Central Bureau of Investigation has been made in the given set of circumstances. A grievance has also been made that the petitioner belonging to the reserve category has been unduly discriminated against and this would invite the allegations of violation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. I have heard the learned counsel for the petitioner at some length and have perused the petition and other related material on record as also the judgments cited by the learned counsel for the petitioner during the course of making his submissions in particular Central Bureau of Investigation Vs. State of Rajasthan and Another, Advocates" Association, High Court, Allahabad and another Vs. State of U.P. and others, Sakiri Vasu Vs. State of U.P. and Others, , Sakiri Vasu v. State of U.P. And others and 1998(1) R.C.R. (Cri) 238, Vivek Chand Sharma v. State of Haryana.

7. A perusal of the grievance of the petitioner as set out in the petition does not even reveal any coherent or intelligible thought process much less reveal a grievance which this court would be empowered to answer in the exercise of its jurisdiction u/s 482 Cr.P.C. If the petitioner is aggrieved of any legislation or notification or executive action affecting his service conditions or impinging upon any of his rights flowing from his service he would have a remedy under Article 226 of the Constitution of India but it would still be a moot proposition as to whether the grounds set up by the petitioner of fraud personal to him perpetrated by the legislators and the members of the executive in unison to enact a legislation would be a sustainable ground for challenge to a legislation (enacting rules) and vires thereof. An executive order based on malice being an altogether different affair.

8. The only conclusion that this court can derive is that the petition falls far short of any logical reasoning and is purely an attempt at adventurism which has resulted in the sheer wastage of time of the court apart from being a complete

abuse of the process of law. Despite the fact that the court tried to show reason to the learned counsel for the petitioner and informed him about his remedies before the writ court, he persisted with his arguments even beyond the expected limits of a patient hearing. The petitioner is represented by a counsel who holds a doctorate in law. The court merely expects and hopes that a more thoughtful approach in choosing an appropriate remedy is adopted, rather than to demonstrate a naive approach and skill of a novice. Consequently, the petition being frivolous and without any merit is dismissed with a costs of Rs. 1 lakh to be deposited before the Mediation and Conciliation Centre of this Court.