
(1981) 02 P&H CK 0011
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3404 of 1972

Gurdas Mal and Another

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 13-02-1981

Acts Referred:

Constitution of India, 1950 — Article 226

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 33

Citation : (1981) 3 ILR (P&H) 274

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : T.S. Gujral, for the Appellant; B.S. Jawanda, for the Respondent

Judgement

I.S. Tiwana, J.—Through this petition under Article 226 of the Constitution of India, the order of the Financial Commissioner dated November 25, 1971 (annexure "H") whereby he declined to restore the revision petition of the Petitioner dismissed for default by him on September 14, 1971 has been impugned.

2. The relevant facts in brief are that the Petitioners petition u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 before the Financial Commissioner was dismissed for default on September 14, 1971, as no body, that is, the Petitioners or their counsel had put in appearance before him. But the fact remains that the counsel for the Petitioners Mr. Amba filed the application for restoration on the same very day, that is, September 14, 1971 explaining his absence earlier in the day. The ground stated by the learned Counsel was that since he was busy in the High Court, he could not find time to be present before the Financial Commissioner in time. The learned Financial Commissioner vide his impugned order dated November 25, 1971 (Annexure "H") has not disbelieved this explanation of the learned Counsel but has only said that since the counsel was aware of the date and no request was made on his behalf for adjourning the case, he did not find any sufficient ground for

restoration of the case. It has been repeated more than once by the courts that parties should not be made to suffer for the lapse or negligence of their counsel. Similar observations have been made in *Bijili Cotton Mills (P) Ltd. Vs. The Presiding Officer, Industrial Tribunal II and Others*, and C.W No. 7385 of 1975 *Budh Ram v. Jagir Kaur* decided on January 21, 1980, by S.S. Kang J.

3. In view of these pronouncements and circumstances of the case in hand quash the impugned orders annexures "G" and "H" and send the case back to the Financial Commissioner for disposal of the same on merits. The parties through their learned Counsel are directed to appear before the Financial Commissioner on March 16, 1981.