

(1998) 02 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4932 of 1997

Jang Bahadur

APPELLANT

Vs

Yamuna Nagar Central Co-operative Bank

RESPONDENT

Date of Decision : 26-02-1998

Acts Referred:

Citation : (1998) 4 LLR 30 : (1998) 2 RCR(Civil) 134 : (1998) 1 SCT 807

Hon'ble Judges : Sat Pal, J

Advocate : Mr. Surya Kant, AdvocateFor the Respondents: Mr. P.S. Patwalia,
Advocate, Advocates for appearing Parties

Judgement

Sat Pal, J. (Oral)

1. This petition has been directed against the order dated 26.11.1997 passed by the learned lower appellate court by which the learned lower appellate court has declined the prayer of the petitioner/plaintiff to grant ex parte injunction. It is not disputed before me that the appeal is still pending before the learned lower appellate court and is fixed for arguments on 4.4.1998.

2. Mr. Surya Kant, the learned counsel appearing on behalf of the petitioners, however, submits that the petitioners have got a prima facie case in their favour as the respondents had issued administrative instructions by which all the Secretaries including selection grade Secretaries who were in the same scale as that of the Clerks, have been placed at the bottom. He, therefore, submits that balance of convenience is in favour of the petitioners and as such interim injunction should be granted in favour of the petitioners.

3. After hearing the learned counsel for the parties and having perused the orders passed by the learned lower appellate Court, I am of the opinion that there is no merit in this petition. The point whether the change in the seniority list has been effected by an administrative order or by way of amendment of rules, is yet to be decided by the learned lower appellate court. Even assuming, the petitioners are having prima facie good case in their favour, it cannot be said

that they will suffer an irreparable injury in case the interim injunction prayed for is not granted during the pendency of the appeal before the learned appellate court. As held by the Division Bench of this Court in *Kalavati Devi v. State of Haryana*, 1998(1) S.C.T. 680 : 1998(1) All Instant Judgments 102, the Court must not only be convinced with three basic ingredients namely, a strong prima facie case, the irreparable injury and the balance of convenience are in favour of the petitioner but must also feel satisfied that it is in public interest to pass interim orders. It was further observed in that case that in service matters like appointment, promotion, confirmation, seniority or retirement etc., the power to grant interim orders has to be exercised with great care and circumspection because it is extremely unusual for the courts to stay the operation of the Government orders merely because the petitioner seeks to make out a prima facie case. In view of the law laid down by the Division Bench, I am of the opinion that there is no merit in this petition and accordingly, the petition is dismissed. It is, however, made clear that any observation made hereinabove shall not have any bearing on the merits of the case pending before the learned trial court as well as the appeal pending before the learned lower appellate court.