(2009) 09 P&H CK 0133

In the Punjab And Haryana At Chandigarh

Neelam Kumari — APPELLANT

Vs

State of Punjab and Others — RESPONDENT

Date of Decision : 17-09-2009

Acts Referred:

Citation : (2009) 156 PLR 657

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jasbir Singh, J.

CM Nos. 15752-53 of 2009

1. Allowed and document Annexure P-10 is taken on record.

C.W.P. 5312 of 2007

This order will dispose of three writ petitions, i.e., Civil Writ Petitions No. 5312, 5718 and 6705, all of the year 2007, as common question of law and facts is involved in all these cases. For facility of dictating judgment, facts are being taken from Civil Writ Petition No. 5312 of 2007.

2. It is not in dispute that the petitioners, in all the three writ petitions are closely related to each other. This writ petition has been filed with a prayer to quash order dated July 26, 2006 (P-5), vide which Manila Pradhan Kshetriya Bachat Yojna Agency, allotted to the petitioner, was cancelled. It is apparent from the records that the above said Agency was allotted to the petitioner in the year 2003. Consequent thereto, agreement Annexure P-2 was entered into between the parties. Clause 4 of the agreement reads thus:

The Agent shall within the ten days from the receipt of the moneys as aforesaid deposit the same in the Post Office(s) or such other offices as may be specified in this behalf by the Government to which he may be attached for the purpose and pending such deposit the Agent shall hold the said moneys in trust for and on behalf of the Government.

3. At the time of Inspection, it was found that the petitioner, instead of depositing the amount in the Post Office, in the accounts of the Depositors, put the same in the Saving Bank Account of her husband and then transferred it, through cheques to the accounts of the depositors. By noticing that discrepancy, a show cause notice was issued to the petitioner on June 9, 2006 (P-3). Followings were the allegations against the petitioner:

l. The signatures of depositors affixed on the card, whose money (Rs. 65,020/-) deposited by you in the saving account of your husband, do not tally with their specimen signatures available in the Post Office.

2. In addition to this, affidavit submitted by you at the time of taking the agency/ renewal of agency, to the effect that none of your close relative is employed in Govt. of India/ Punjab Govt., is absolutely proved wrong. As per guidelines issued by the Govt., if any one relative of any agent is a Govt. employee, then he is required to furnish No Objection Certificate, however, you have not submitted any NOC in this office.

4. To the above said show cause notice, petitioner filed reply on June 12, 2006 (P-4), wherein it was virtually admitted that after collecting the amount from various depositors on May 24, 2006, she deposited the same in the account of her husband and thereafter the money was transferred in the accounts of the depositors on the same day. She further stated that there was no greed on her part, rather it was a practice adopted by all the agents. She further stated that there may be some variation in the signatures of the depositors, but in fact, signatures were put by them. She further mentioned that none of her close relatives is working in the Post and Telegraph Department or National Saving Organization. Finding the reply unsatisfactory, impugned order was passed on July 26, 2006, canceling agency of the petitioner.

5. Counsel for the parties heard. In reply filed by the respondents, in sub-paras (vii) and (viii) of para No. 2, it has been averred as under:

(vii) That Sub Para No. (vii) of Para (2) of the petition is a matter of record regarding the reply filed by the petitioner to the show cause notice dated 9.6.2006. It is pertinent to mention here that as per the terms and conditions of the agreement Annexure R-2, the petitioner was required to deposit the sum collected from the RD depositors straightway into their account in the Post Office. But instead of depositing the amount straightway the petitioner used to deposit the amount collected from the RD depositors in the name of her husband and thereafter deposited the amount in the name of investors into their account after getting the cheque from her husband. In this way, the petitioner was earning interest on the amount received from the RD depositors by firstly depositing the whole of the amount in the account of her husband and then transferring the amount in the name of depositors in their account by getting a cheque from her husband; completely in violation of the terms and conditions of the agreement, annexure R-2. It is further pertinent to mention here that at the time of getting agency, the petitioner executed an agreement to the effect that none of her relatives are working in any department of Central Government / State Government / UT whereas true factual position is that brother in law of the petitioner namely Vinay Kumar Sud (brother of petitioner''s husband) is working as Inspector in Punjab Roadways, Moga and the second brother in law namely Pawan Kumar Sud is working as Senior Assistant in the office of Sub Divisional Magistrate, Shahkot. Thus, the petitioner furnished wrong affidavit that none of her relatives are working with any department of Central Government/State Government/UT. The relevant certificates regarding employment of Vinay Kumar Sud and Pawan Kumar Sud are attached as Annexure R-3 and Annexure R-4. Affidavit of the petitioner dated 31.12.2002 is attached as Annexure R-5.

(viii) That in reply to sub para No. (viii) of para (2) of the petition, it is submitted that proper opportunities were provided to the petitioner to file reply to the show cause notice dated 9.6.2006 and thereafter the petitioner and even respondents by filing a detailed reply Annexure P-4 and only thereafter respondent No. 3 passed an order dated 26.7.2006 vide which the agency of the petitioner was cancelled.

6. Along with the written-statement, a copy of the format, which was supplied to all the Agents, has been annexed as Annexure R-l. Vide that document, instructions were issued to the Agents stating as to how to deal with the money, deposited by the depositors. Clauses 1, 2 and 5 read as under:

1. Agent should not handle cash exceeding Rs. 10,000/- at a time.

2. Agent should deposit account holder money immediately in the Post Office.

5. Agent should strictly abide by instructions/directions issued by Government of India or by a person duly authorized by Government.

7. It is not in dispute that on the given date, the petitioner has handled cash more than Rs. 10,000/-. She had collected Rs. 65,000/- from the depositors and then deposited the same in Saving Bank Account of her husband and thereafter it was transferred to the accounts of the depositors. For this action, no explanation has been given. May be, the amount was transferred on the same day but the procedure adopted was contrary to the terms and conditions of the agreement between the parties and the instructions issued to the Agents vide Annexure R-l. It has also come on record that brothers-in-law of the petitioner are in Government service.

8. In C.W.P. No. 5718 of 2007, it has been stated that when the impugned order dated July 26, 2006, was passed, the matter was not considered in the proper perspective. In this writ petition, it was allegation against the petitioner that he had deposited the amount in Post Office, which was collected by his wife, who is also an Agent, in his own account and he also adopted the same procedure with

regard to amount collected by him. The amount was required to be deposited directly in the Post Office, in the accounts of the Depositors. It is also allegation against the petitioner that his close relatives were in Government service when he got the Agency renewed, and he failed to state this fact. Allegation against the petitioner is very serious, it appears that his wife is only a face and in fact he was running the two Agencies - one in the name of his wife and second in his own name. It has also come on record that brothers of the petitioner are in Government service.

9. In CWP No. 6705 of 2007, besides the facts, mentioned above, it was allegation against the petitioner that he by playing a fraud upon the depositors, who had deposited their money directly in the Post Office in their account, got some benefit, which otherwise was not due to him, rather the depositors were entitled to get that benefit. This Court is satisfied that there is no explanation for such an illegal action.

No case is made out to interfere. Consequently, the writ petitions fail and the same are dismissed.

