

(2008) 12 SC CK 0076

In the Supreme Court Of India

Case No : Civil Appeal No's. 7323-7324 2008 (Arising out S.L.P. (C) No's. 1011-1012 of 2006)

Ranjit Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 16-12-2008

Acts Referred:

Citation : (2009) 1 ALD 117 : (2008) 13 JT 9 : (2009) 1 SCALE 30 : (2009) 2 SCC 233 : (2009) 1 SCC(L&S) 369

Hon'ble Judges : Markandey Katju, J;Altamas Kabir, J

Bench : Division Bench

Advocate : R.K. Talwar and S.L. Aneja, for the Appellant; Anil Grover, Rakesh Kr. Garg, Manish Kumar and Ajay Pal, for the Respondent

Final Decision : Dismissed

Judgement

Altamas Kabir, J.—Leave granted.

2. The appellant was appointed as a conductor in the Transport Department of Punjab on 10th October, 1983. On 21st December, 2003, while on duty on a Punjab Roadways bus, which was coming from Amritsar to Jalandhar, the bus met with an accident in which many passengers and also the appellant received grievous injuries. On being taken to hospital, extensive facial damage was noted, together with bone injuries, all over appellant's body. After initial treatment, he was discharged from the hospital on 15th January, 2004, but the doctors advised him complete bed rest for a period of three months. On 13th February, 2004, the appellant made a request to the respondent No. 2 to sanction him leave as he was unable to attend his duties and furnished a copy of the certificate issued by the doctors in the hospital in support of his request. In reply to the request made by the appellant, the respondent No. 2 by his order of even date indicated that the appellant had been sanctioned leave for the period from 22nd December, 2003 to 15th January, 2004 and thereafter leave had been sanctioned without pay from 16th January, 2004 to 15th March, 2004. In view of the said order, the

appellant was not paid his salary after 16th January, 2004. The appellant made a representation to the respondent No. 2 against his said order of 13th February, 2004 and requested that his salary be paid for the period during which he was undergoing treatment.

3. On 1st April, 2004, the appellant was once again admitted to a Nursing Home for corrective treatment of his face and he was discharged on 6th April, 2004, and a certificate to that effect was issued by the Nursing Home authorities. According to the appellant, he had spent a sum of Rs. 50,000/- for the operation and other expenses in the Nursing Home.

4. The appellant claims that he had undergone treatment in different hospitals and had incurred medical bills amounting to Rs. 1,57,000/-. Since no payment was being made despite the medical bills having been submitted, the appellant filed Writ Petition No. 13943 of 2005, questioning the inaction of the respondents and prayed for a direction on the respondents to pay his dues together with interest at the rate of 18% from the due date till the date of actual payment. The Writ Petition was dismissed on 26th September, 2005, in the absence of appellant's counsel with a direction to the respondents to pay to the appellant the settled amount of Rs. 58,498/- and that the appellant would be entitled to claim the balance amount of his total claim before the competent authority. According to the appellant, out of the total claim of Rs. 1,57,000/- he was paid a sum of Rs. 58,498 as sanctioned by the respondent authorities. A Review Application filed in respect of the said order was also dismissed on 18th October, 2005. The present Appeals are directed against both the said orders dismissing the Writ Petition as also the Review Petition.

5. It will be apparent from what has been stated hereinabove that the two questions to be considered in these appeals are whether the appellant would be entitled to the reimbursement of the total medical expenses incurred by him and also whether he would be entitled to his salary during the period of his hospitalization, even though no medical or earned leave or half- pay leave was available to him.

6. Appearing in support of the appeals, Mr. R.K. Talwar, learned advocate, submitted that since the appellant had met with a near fatal accident and had to be hospitalized while on duty and since he had been prevented from attending his duties on account thereof, the appellant's case was different from other cases in that he did not willfully stayed-away from duties but was prevented by circumstances which were beyond his control from doing so. Mr. Talwar submitted that the Leave Rules as relied upon by respondent No. 2 in sanctioning leave without pay for the period after 16th January, 2004, were applicable in ordinary cases where the employee stayed away from work voluntarily. It was urged that a distinction would have to be made between such cases and cases like the present case where the employee had no choice in the matter and was prevented from performing his duties on account of uncontrollable circumstances. Mr. Talwar also submitted that, in any event, the respondent No. 2 was bound to pay

the medical expenses incurred by the appellant on account of the severe injuries suffered by him while on duty. Mr. Talwar submitted that the High Court had erred in allowing the respondent-company to deposit the sum of Rs. 58,498/- only as there was no reason for the High Court to treat the settled amount differently from the total claim of the appellant. Mr. Talwar urged that the said order of the High Court has generated the controversy in the instant appeals and that this is a fit case for interference by this Court.

7. On the other hand, on behalf of the respondent, Mr. Anil Grover, learned advocate, submitted that the two questions indicated hereinbefore in paragraph 5 had been adequately answered in the impugned judgment and the order of the High Court did not warrant any interference. Mr. Grover submitted further that the total claim of the appellant had been considered and had been divided between dues, which were admittedly payable, and those which were disputed and the High Court had left it open to the appellant to seek his remedy as to the remaining balance of his claim before the competent authority.

8. Mr. Grover submitted that no prejudice has been caused to the appellant by the order of the High Court impugned in these appeals and it had been left to the competent authority to decide the balance claim.

9. Having considered the submissions made on behalf of the respective parties, it appears to us that the concerned respondents had dealt with the appellant's claim in accordance with the Rules governing the service of the appellant and it was for the appellant to establish that he was entitled to reimbursement of the entire amount of the medical expenses which had been incurred by him from his own resources during his treatment in hospital. It goes without saying that if the full claim of the appellant was admissible there would have been no controversy in the matter. At the time of the settlement of the appellant's claim, it is only to be expected that the Rules regarding entitlement of reimbursement on account of medical expenses had been considered while arriving at a final decision. Since a dispute has been raised as to the appellant's to the entire medical expenses incurred by him during his treatment, the High Court has quite rightly remitted the matter to the competent authority, entrusted to deal with such matters, to arrive at a decision in the appellant's case. It is difficult for the writ Court to take upon itself an investigative mantle in order to find out whether the appellant's claim for reimbursement of the entire medical expenses incurred by him during treatment was valid or not. Such an enquiry can be undertaken by the authority which has been entrusted with such work.

10. We do not, therefore, see any error in the approach of the High Court in its writ jurisdiction. In our view, the decision of the appellant's claim has been rightly left to the competent authority and does not warrant any change. We, therefore, dismiss the appeals, but we also indicate that the appellant will be entitled to make a fresh representation to the competent authority in regard to his claims within three months from date, and, if such representation is made, the same is to be decided by the competent authority within two months from

the date of receipt of such representation, after giving the parties a reasonable opportunity of hearing. We reiterate that the order that is to be passed upon the fresh representation shall be a reasoned order and upon taking into consideration the Rules relating to the service conditions of the appellant.

11. There will, however, be no order as to costs.