
(1988) 10 P&H CK 0080
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2812 of 1985

State of Punjab

APPELLANT

Vs

Tara Chand, A.C.O.-III

RESPONDENT

Date of Decision : 05-10-1988

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1989) CivCC 99 : (1990) 97 PLR 552

Hon'ble Judges : D.V. Sehgal, J

Bench : Single Bench

Advocate : Inderpartap Singh, for the Appellant; K. B. Bhandari, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Sehgal, J.—This revision petition is directed against the order dated 31.5.1985 passed by the learned Sub-Judge 1st Class, Patiala, during the course of execution of the decree dated 15.7.1967 passed in favour of the decree-holder respondent and against the State of Punjab petitioner

2. By virtue of the decree a declaration was granted to the effect that the impugned order dispensing with the services of the petitioner was illegal and void. An appeal filed by the petitioner against the aforesaid decree was dismissed on 11.11.1968. It is admitted on both sides that in pursuance of the declaration granted through the decree the respondent was reinstated in service. He filed an execution application on 18.1.1974, The petitioner paid the costs of the suit and the execution application was consigned to the record.

3. The respondent then filed another execution application on 23.4.1980 claiming that as consequence of the declaratory decree he was entitled to the payment of the salary for the period intervening the dates of the impugned order and his reinstatement. He also claimed annual increments and other consequential benefits. Vide the impugned order the learned Executing Court had held that the

respondent is entitled to these consequential benefits and has directed the petitioner to make payment amount ascertained to him.

4. The objection which was taken by the petitioner in the trial Court, which has once against been pressed before me, is that the execution application filed by the respondent on 18.1.1974 had been fully satisfied by payment of the costs. The respondent can not file another execution application for the consequential benefits following from the decree.

5. I have heard the learned counsel for the parses. I am of the considered view that the objection is wholly misconceived. The respondent was not estopped from filing yet another execution application when the benefits flowing from the decree had not been afforded to him. The fact that the earlier execution application has been consigned to the record is immaterial and does not stand in the way of the second execution application.

6. I, therefore, find no merit in this revision petition which is dismissed. The parties are, however, left to bear their own costs.

7. The parties through their counsel are directed to appear before the Executing Court on 2.11.1988, on which date it shall proceed to take further steps in pursuance of its order dated 31.5.1985 to recover the amount from the petitioner in the execution pending before it.