

ITEM NO.5

COURT NO.6

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. 2/2015 in Petition(s) for Special Leave to Appeal (C) No(s).
25834/2013

(Arising out of impugned final judgment and order dated 04/03/2013
in COCP No. 3650/2012,04/03/2013 in CWP No. 10369/2010 passed by
the High Court Of Punjab & Haryana At Chandigarh)

HARBHAJAN SINGH

Petitioner(s)

VERSUS

P.K. CHAUDHARY & ANR.

Respondent(s)

(for directions and office report)

Date : 04/09/2015 This application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Mr. Jasbir Singh Malik,Adv.
Mr. Nayan Nepal,Adv.
Ms. Usha Nandini. V,Adv.

For Respondent(s) Mr. Arun Bhardwaj,AAG, Haryana
Mr. Sanjay Kumar Visen,Adv.
Mr. Ashwani K. Upadhyay,Adv.
Ms. Kiran Ahlawat,Adv.
Ms. Neha Garg,Adv.
Mr. Ronak Karanpuria,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed, in terms of the signed order.

In view of the above order in Civil Appeal, no separate
order is required in I.A.No.2/2015.

[O.P. SHARMA]
COURT MASTER

[INDU BALA KAPUR]
COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. 2 OF 2015

AND

CIVIL APPEAL NO.6859 OF 2015

(Arising out of SLP(C) No.25834 OF 2013)

HARBHAJAN SINGH

APPELLANT

VERSUS

P.K. CHAUDHARY & ANR.

RESPONDENTS

O R D E R

I.A.No.2/2015 is filed with the prayer as follows:

- "a) Direct the Respondent-State of Haryana to appoint the Petitioner on the post of Sub-Divisional Engineer(Civil), PWD (Water Supply and Sanitation) Department, Haryana subject to outcome of the present Special Leave Petition (C)No.25834 of 2013 in the light of the decision dated 30.04.2012 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No.10369 of 2010;and
- b) Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

Leave granted in the SLP.

This appeal is filed, aggrieved by the order dated 4.3.2012 passed by High Court of Punjab & Haryana at Chandigarh in COCP No.3650/2012, by which the High court dismissed the contempt petition filed by the appellant herein. The relevant portion of the order reads as below:

"Non-compliance of the order dated 30.4.2012 passed in CWP No.10369 of 2010 has been alleged in this petition.

Upon notice, reply has been filed wherein a stand has been taken that the petitioner is not eligible as his degree has not been recognized as held in CWP No.1640 of 2008 titled as Kartar Singh vs. Union of India & Ors., decided on 6.11.2012.

This fact could not be disputed on behalf of the petitioner except that the aforesaid judgment is under challenge.

In view thereof, this Court is of the view that no contempt is made out in the fact and circumstances of the case".

The contempt petition came to be filed alleging a breach of a direction issued by the High Court earlier on 30.4.2012. The relevant portion of the order reads as under:

"In view of the above, this writ petition is allowed. Appointment of Abnhinav Verma-Respondent No.25 against the post of the Backward Class category is quashed. A direction is issued to the respondents to appoint the petitioner on the said post from the date Ahinav Verma-Respondent No.25 was appointed. Petitioner shall not be entitled to any monetary benefits but shall be entitled to other consequential benefits. Direction is also issued to the respondents to consider the candidature of Abhinav Vserma-Respondent No.25 under the General category, in case two selected candidates, namely, Sanjeev Tanwar-Respondent No.16 and Amit Manuja-Respondent No.17 have not joined.

The directions issued above be complied with within a period of one month from the date of receipt of certified copy of this order."

Unfortunately, the contempt petition came to be dismissed on the grounds which are wholly irrelevant in the context of the earlier order of the High Court dated 30.4.2012 referred to supra.

Heard Mr. Jasbir Singh Malik, learned counsel for the appellant and Mr. Arun Bhardwaj, learned AAG appearing for Respondent No.1-State. According to the learned counsel, the appellant claimed appointment to the post of Sub-Divisional Engineer(Civil), PWD (Water Supply and Sanitation) Department, Haryana. The appellant could not be appointed inspite of the direction of the High Court because he held a degree awarded by a body not recognised by the State.

From the order of the High Court dated 30.4.2012, it appears that the question of recognition of the degree of the appellant was not the subject matter of the writ petitioner. If, for any reason, the respondents believe that the direction of the High Court dated 30.4.2012 need not be implemented, the respondents should have brought it to the notice of the High Court and sought appropriate clarification. On the other hand, for the first time, it appears respondents raised such an objection in a contempt petition filed by the appellant herein. Unfortunately, such a submission found favour with the High Court, which in our opinion, is untenable.

In the circumstances, the appeal is allowed. The impugned order of the High Court is set aside. The matter is

remitted to the High Court. The High Court will now examine the matter afresh and pass appropriate orders in contempt case being C.O.C.P.No.3650 of 2012.

In view of the above order in Civil Appeal, no separate order is required in I.A.No.2/2015.

.....J.
[J. CHELAMESWAR]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI
SEPTEMBER 04, 2015