

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-(PIL)-45-2021 (O&M)

Date of decision:- 30.09.2021

Anil Kumar

...Petitioner (s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Ms. Rupinder Kaur Thind, Advocate,
for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

Mr. Rajinder Goyal, Advocate,
for Sukhvir Singh Lather.

* * * *

RAVI SHANKER JHA, C.J. (ORAL)

In this petition noticing certain peculiar facts regarding the identity of the petitioner – Anil Kumar son of Dharam Pal and non-existence of the petitioner – Bajinder Singh son of Raje Ram in the previous petition i.e. CWP-(PIL)-131-2020, this Court vide order dated 12.03.2021 required the learned counsel for the petitioner to produce the petitioners, for he happened to be the counsel in both these petitions:-

“The petitioner, who purports to have approached this Court in public interest, prays for a certiorari to quash the order dated 09.11.2020 (Annexure P-10) and for a direction to the official respondents to set aside the order of re-employment issued in favour of respondents No. 7 to 10 being violative of Rule 23(2) of the Haryana Civil Services (Pension) Rules, 2016.

2. While going through the petition, it is observed that earlier a petition (CWP-PIL No. 131 of 2020), based upon the same cause of action and against the same set of respondents was filed by Bajinder Singh son of Raje Ram. But, for the learned Additional Advocate General, Haryana, had submitted that since the legal notice served on behalf of the petitioner was pending consideration and a decision thereupon would be reached soon, the same was disposed of vide order dated 30.09.2020. Whereafter, the Authorities upon consideration of the claim/grievance of the petitioner, vide order

dated 10.11.2020 (ibid), concluded for the allegations leveled by the petitioner were wholly baseless, the legal notice they were served with, was filed. Thus, this petition.

3. However, what we are really intrigued by: the earlier petition (CWP-PIL No. 131 of 2020) was filed by Bajinder Singh son of Raje Ram, whereas the petition at hands has been instituted by Anil Kumar son of Dharam Pal. Not just that, in paragraphs 6 and 12 of the petition, the petitioner (Anil Kumar) claims that he had served the authorities with the legal notice dated 02.07.2020 (Annexure P-2) and whereafter he filed the CWP-PIL No. 131 of 2020. Whereas a copy of the legal notice (ibid), as also the order passed by this Court dated 30.09.2020 (Annexure P-9) reveal that it was Bajinder Singh, whose cause was being espoused and he alone was the petitioner in the earlier writ petition. Further, the order under challenge dated 10.11.2020 shows that before taking any decision, the authorities deemed necessary to even afford a hearing to the petitioner (Bajinder Singh). Accordingly, vide office letter dated 12.10.2020, the petitioner was sought to be informed and asked to appear before the designated authority on 14.10.2020. However, Shri Nitin Kumar, Junior Engineer, who was required to deliver the letter (ibid) at his residential address, reported that address of the petitioner (Bajinder Singh) was wrong and not traceable. Whereafter, even his Advocate was contacted to verify his residential address. But neither his address nor telephone number was available with the Advocate concerned. The Authorities then made yet another attempt to serve him vide registered letter dated 12.01.2020, but that too was received back with the remarks "Bagair gali mohalle ke pata nahi lagta hai". Whereupon, learned counsel for the petitioner was heard and after examining the matter on-merits, the authorities rejected the claim of the petitioner.

Thus, in the given circumstances, we doubt, if any such person (Bajinder Singh son of Raje Ram) even existed. But, before we form any conclusive opinion and proceed further, we would require Bajinder Singh son of Raje Ram to present himself before this Court. Accordingly, upon furnishing current residential address and particulars by the learned counsel for the petitioner, let notice be issued, vide registered and speed post, to Bajinder Singh son of Raje Ram, for 31.03.2021.

Likewise, how Anil Kumar, the petitioner in this petition, could ever claim to have served the legal

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notice (ibid), filed the earlier petition (CWP-PIL No. 131 of 2020), obtained an order Annexure P-9, gained access to all these documents and assails the order dated 10.11.2020 is another serious issue the Court is deeply concerned with. For, co-incidentally both the petitions were filed by the same counsel, he shall also ensure their presence in Court on the adjourned date.

Records of CWP-PIL No. 131 of 2020 (Bajinder Singh v. State of Haryana and others) decided on 30.09.2020 be requisitioned and put up along with this case.

Adjourned to 31.03.2021.”

Subsequently, it was informed by the learned counsel for the petitioner that previous petition (CWP-(PIL)-131-2020) was filed on the instructions of one Sukhvir Singh Lather who disclosed that one Bajinder Singh son of Raje Ram resident of village Kosali, District Jhajjar wanted to file a public interest litigation. Accordingly, we passed the following order on 05.04.2021:-

“For learned counsel for the petitioner was required to ensure that Bajinder Singh (petitioner in CWP-PIL No. 131 of 2020) presents himself before this Court, it is submitted that all efforts to establish contact with him have since failed. Infact, he submits the previous petition was filed on instructions from one Sukhbir Singh Lath, who is employed with Irrigation Department, Haryana. Learned Additional Advocate General, Haryana who has noted the particulars and mobile number of Sukhbir Singh Lath, prays for a short accommodation to ascertain the true position and respond.

Even as per office report, notices issued to Bajinder Singh have not been received back served or otherwise. Adjourned to 30.04.2021 to await the service report.

In the meanwhile, let an affidavit be filed by the petitioner (Anil Kumar) as also the learned counsel for the petitioner explaining the circumstances that have led to the present situation.”

Whereafter, notices were issued to Sukhvir Singh Lather and upon being served, he furnished an affidavit dated 13.09.2021 and affirmed that he was working on contractual basis in the office of Chief Engineer, BWS,

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Irrigation & W.R. Department, Haryana, Panchkula and several persons who had issues with the department would seek his legal advice for filing petition(s). And he would refer them to the advocates. Likewise one Bajinder Singh son of Raje Ram had approached him and he had referred him to the learned counsel, who is appearing for the petitioner – Anil Kumar, even in the present petition. Thus, he had nothing more to do in the matter.

Being dissatisfied with the affidavit dated 13.09.2021 filed by Sukhvir Singh Lather and the matter being extremely sensitive, we clearly expressed our mind to the counsel appearing for him and shared the options the Court was left with to get to the root of the matter.

Whereafter, Sukhvir Singh Lather filed another affidavit on 23.09.2021, wherein it has been stated as under:-

“1. That the deponent was posted as Zildar in the office of respondent No. 3 and after unblemished services retired on 28.02.2019 after attaining the age of superannuation. After the retirement, the deponent was again employed on contractual basis in the office of respondent No. 3 till 03.09.2021 and thereafter has been relieved.

2. That the deponent has also gone through the order dated 12.03.2021 passed by this Hon'ble Court, as also the pleadings in CWP-PIL No. 131 of 2020 titled as Bajinder Singh vs State of Haryana and others disposed of on 30.09.2020, as also the pleadings in CWP-PIL No. 45 of 2021 and the affidavit dated 29.04.2021 filed by Anil Kumar and is filing the present affidavit after being fully aware of the facts and the issue involved in the present case.

3. That in pursuance to the order dated 30.07.2021, the deponent received the notice from his Hon'ble Court, whereby the deponent was required to file his affidavit. The deponent filed affidavit dated 13.09.2021.

4. That the petition came up for hearing on 23.09.2021, on which date, the counsel for the deponent sought time to file affidavit of deponent.

5. That the deponent craves the indulgence of this Hon'ble Court to bring the correct facts on record, which could not be brought on record earlier, as the deponent was under fear because of mistake committed by him. In fact the deponent has never met any Bajinder Singh earlier and nor introduced any such Bajinder Singh to Sh. J.S. Thind,

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Advocate. In fact, there is no such person in the name of Bajinder Singh who filed CWP (PIL) No. 131 of 2020.

6. That the deponent did not inform about the facts to anyone and even filed earlier affidavit dated 13.09.2021, without informing the facts as stated in the present affidavit.

7. That in fact the deponent filed the earlier writ petition i.e. CWP (PIL) No. 131 of 2020 by posing to be Bajinder Singh and duly signed all the documents in this regard as Bajinder Singh. This fact was also not known to either Sh. J.S. Thind Advocate or to Sh. Balsher Singh, Advocate.

8. That the deponent understands the mistake committed by him, which was committed by him, so that his name do not figure in filing of CWP (PIL) 131 of 2020.

9. That the deponent has no personal or any other interest in the subject matter and has not gained any undue benefit or any other benefit in filing CWP (PIL) 131 of 2020.

10. That the deponent has highest regards for the Court and even cannot think of doing any act which may detriment the administration of justice. The deponent tenders his unconditional apology for the acts of the deponent.

11. That the deponent is law abiding citizen and has full respect for the orders passed by this Hon'ble Court or by any other court of law and the deponent can never try to think even regarding the disobedience as well as any violation of directions/orders passed by this Hon'ble Court and deponent further tenders unconditional apology before this Hon'ble Court for acts committed by the deponent.

12. That the deponent undertakes not to indulge in any such or other matter in future.

13. That in view of the facts stated above, the deponent craves the indulgence of this Hon'ble Court for pardoning the deponent."

From a bare perusal of the subsequent affidavit, it is apparent that Sukhvir Singh Lather never met any person by the name Bajinder Singh. Obviously, there was no occasion to introduce any such person to Mr. Jasinder Singh Thind, learned counsel for the petitioner either. He has

admitted that there is no such person as Bajinder Singh who is stated to have filed CWP-(PIL)-131-2020. Significantly, he has also stated in paragraph 7 of his affidavit that in fact he himself posed as Bajinder Singh and got CWP-(PIL)-131-2020 filed by signing all the documents as Bajinder Singh. And this fact was neither known to Mr. Jasminder Singh Thind, nor to Mr. Balsher Singh, who were the counsel even in the earlier writ petition. He admits that he has made a grave mistake and for which he tenders an unconditional apology.

From the above narration of events, it is apparent that earlier petition (CWP-(PIL)-131-2020) was filed by one Bajinder Singh who never existed and orders were obtained from this Court in the name of a fictitious person. Concededly, the said petition was filed by Sukhvir Singh Lather posing himself to be Bajinder Singh. However, none of the parties or Sukhvir Singh Lather has made any allegation against the present petitioner – Anil Kumar. But evidently he was negligent, for he signed the second petition, which was verbatim the same as the first, as if he was the petitioner even in the first petition and not Bajinder Singh. Undoubtedly, the petition was filed by the learned counsel without verifying or making sure about the identity of the petitioner or his true antecedents.

However, as the learned counsel appearing for Sukhvir Singh Lather has tendered an unconditional apology on his behalf and stated that this act was committed in a state of overzealousness without deriving any personal benefit or gain, the unconditional apology tendered by him is accepted and he is warned to be careful in future.

However, taking a cue from the situation at hands and with a view to protect the advocates, we consider it expedient and necessary to direct that identity of the petitioner(s); and their residential address should be verified prior to filing of any matter by mentioning the Aadhar Card number(s) or Passport number(s) etc., which are considered to be the authentic documents to establish the identity of an individual, alongwith contact number(s) and address should be clearly mentioned in the petition and verified by the learned counsel before filing of the petition.

Necessary steps for compliance of these directions be initiated by the Registry/Office forthwith.

The writ petition accordingly stands disposed of with the aforesaid directions.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

30.09.2021

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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No



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