



REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO. 267 OF 2024

IN

CIVIL APPEAL NO. 3082 OF 2022

ANANTDEEP SINGH

...APPELLANT(S)

VERSUS

**THE HIGH COURT OF PUNJAB
AND HARYANA AT CHANDIGARH
& ANR.**

...RESPONDENT(S)

J U D G M E N T

VIKRAM NATH, J.

1. Miscellaneous Application No.267 of 2024 has been filed by the appellant Anantdeep Singh praying for the following reliefs:

“i) direct the respondents to reinstate the appellant/applicant into service as Civil Judge with all consequential benefits in view of the order dated 20.04.2022 passed by this Hon’ble Court in Civil Appeal No.3082 of 2022 arising out of Special Leave Petition (Civil) No.33435 of 2018;

ii) Pass any other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

2. Before we deal with the aforesaid application, it would be necessary to refer to the relevant facts giving rise to the present application:

2.1. The appellant was a judicial officer with the Punjab Civil Services (Judicial Branch) since 2006. Under the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, period of probation under Rule 7 thereof is for three years which was to continue till December 2009. At the time of joining the service in December 2006, the appellant was already married, however, the marriage was not going very smoothly and quite often there would be disputes between the appellant and his wife. In order to avoid the situation getting worse, the appellant left the official accommodation and shifted to a private accommodation. His wife and mother-in-law continued to reside in the official accommodation.

Sometime in November/December 2008, the wife of the appellant made a complaint as a result of which the appellant was called by not only the District Judge but also the Administrative Judge concerned in December 2008 and February 2009. The appellant explained his position and clarified why he was residing in a private accommodation. No written explanation was called from the appellant regarding the complaint made by his wife at that stage.

2.2. It was only vide communication dated 06.04.2009, that the appellant was called upon to answer as to whether he was residing in the official accommodation. Immediately, the appellant responded vide letter dated 07.04.2009 and a further letter dated 20.04.2009 stating that he had moved out of his official accommodation apprehending danger to his life and to avoid any undue incident and was residing with his maternal uncle. On 22.04.2009, the appellant filed a petition seeking a decree of divorce. At the same

time, the appellant -mother-in-law, who was also a government servant working as Principal of a Government College at Faridkot, met the District and Sessions Judge and complained about the appellant with regard to the dispute with his wife. The District and Sessions Judge, Faridkot forwarded his report on 20.05.2009 to the Registrar General of the High Court mentioning the matrimonial dispute of the appellant.

2.3. In November 2009, reports were called regarding the review of work of all judicial officers on probation by the Committee of Judges In Charge of review of work and conduct of the probationers. The report is said to have been sent by the District and Sessions Judge on 27.11.2009 stating that the work and conduct of the appellant was satisfactory. Thereafter, it appears that the Registrar General of the High Court again wrote to the District and Sessions Judge, Faridkot to send a detailed report regarding the appellant in particular, concerning the allegations against the

appellant of having an illicit relationship with a lady judicial officer. The Administrative Judge on the same day i.e. 01.12.2009, gave his remarks based on the report of the District and Sessions Judge dated 20.05.2009. The Committee of the Judges overseeing the work and conduct of the probationers, gave its opinion that the appellant was not fit to continue in service and further, decided that the lady judicial officer, with whom the appellant was said to be having a relationship, be identified and she may also be confronted with the said allegations.

2.4. On 02.12.2009, the District and Sessions Judge after recording the statement of the appellant's wife and the alleged lady judicial officer, forwarded his report in which it was stated that wife of the appellant had clearly alleged that her husband was having an illicit relationship with a lady judicial officer who was then posted at Phagwada because of which the appellant used to harass his wife. The Committee of Judges

overseeing the work and conduct of the probationers on 04.12.2009 recommended that the appellant and also the lady judicial officer were not fit to be retained in the service.

2.5. The Full Court of the High Court in its meeting dated 07.12.2009 accepted the report of the Committee of Judges dated 04.12.2009 and resolved that the services of not only the appellant but also the lady judicial officer were to be terminated by an order of Termination Simpliciter. The work was withdrawn from the appellant on 07.12.2009. The resolution of the Full Court dated 07.12.2009 was accepted by the State of Punjab and an order was passed on 17.12.2009 dispensing with the services of the appellant. On the same day, another order was passed by the State of Punjab dispensing the services of the lady judicial officer.

2.6. Aggrieved by the said termination, the appellant filed CWP No.9003 of 2010 before the

High Court. Similarly, the lady judicial officer filed a separate petition registered as CWP No.8250 of 2010 challenging her termination. The Division Bench of the High Court, vide judgment and order dated 25.10.2018, dismissed the writ petition of the appellant. On the very next day i.e., 26.10.2018, the same Division Bench of the High Court allowed the writ petition of the lady judicial officer, set aside the termination order, after disbelieving the allegations of an illicit relationship.

2.7. The High Court of Punjab and Haryana preferred SLP (Civil) No.4894 of 2019 assailing the correctness of the judgment dated 26.10.2018 passed in the case of the lady judicial officer which came to be dismissed vide order dated 01.07.2019. Thereafter, the lady judicial officer was reinstated and is working.

2.8. The appellant preferred SLP (Civil) 33435 of 2018 assailing the correctness of the judgment

dated 25.10.2018 passed by the High Court dismissing the writ petition. The SLP filed by the appellant was taken up on 03.03.2022 and after hearing the parties to some extent, the matter was adjourned. However, the Court required the counsel for the High Court of Punjab and Haryana to obtain further instructions in the matter after orally observing that it was prima facie of the view that the appellant also deserves to be reinstated in service.

2.9. The counsel for the High Court of Punjab and Haryana communicated the observations made by this Court to the Registrar General, vide communication dated 04.03.2022. However, the Registrar General of the High Court replied vide communication dated 11.03.2022 with the instructions that the matter may be argued on merits.

2.10. On 20.04.2022, when the matter came up before the Court, after hearing the learned senior

counsel for the parties, this Court granted leave and allowed the appeal after setting aside the impugned judgment of the High Court dated 25.10.2018 and the Termination Order dated 17.12.2009. It further requested the Full Court of the High Court to reconsider the matter. The order dated 20.04.2022 is reproduced below:

“Leave granted.

We have heard Mr. P.S.Patwalia, learned senior counsel for the appellant and Mr. Nidhesh Gupta, learned senior counsel for the respondent-High Court of Punjab and Haryana and perused the relevant material placed on record.

We are of the considered view that the Full Court of the High Court of Punjab and Haryana at Chandigarh needs to reconsider this matter.

Therefore, the impugned order dated 25th October, 2018 and the order passed by the Principal Secretary to Government, Punjab, Department of Home Affairs and Justice on 17th December, 2009 terminating the services of the appellant herein are set aside.

We, however, request the Full Court of the High Court of Punjab and Haryana to reconsider the matter

without being influenced by any of the observations made by the Division Bench of the High Court in the impugned order.

The appeal accordingly stands disposed of in terms aforesaid.”

2.11. No consequential orders were passed by the State after the order dated 20.04.2022 whereby the termination order of the appellant dated 17.12.2009 passed by the State Government was set aside. The High Court however, took up the matter on the administrative side. The Full Court in its meeting dated 16.09.2022 referred the matter to the Recruitment and Promotion Committee (RPC). Seven months thereafter, the RPC reiterated its earlier decision dated 04.12.2009, relying upon the note of the Administrative Judge dated 01.12.2009 and also the report of the District and Sessions Judge dated 20.05.2009. The recommendation of the RPC dated 12.04.2023 is reproduced hereunder:

“...Reconsideration of Hon'ble Full Court decision dated 07.12.2009 regarding dispensing with the services of Sh.

Anantdeep Singh, former member of P.C.S. (J.B.), in view of judgment dated 20.04.2022 passed by Hon'ble Supreme Court in the Special Leave Petition (Civil) No.33435 of 2018 titled as "Anantdeep Singh Vs. The High Court of Punjab and Haryana at Chandigarh & Anr."

Sh. Anantdeep Singh, had joined P.C.S. (J.B.) on 12.12.2006. On the recommendation of this Court, his services were dispensed with, during probation, vide Punjab Government order dated 17.12.2009. The officer relinquished charge on 24.12.2009. The CWP No.9003 of 2010 filed by him, against the order dated 17.12.2009 of Punjab Government, was dismissed by Hon'ble Division Bench of this Court. vide judgment dated 25.10.2018. Thereafter, Sh. Anantdeep Singh had filed SLP (Civil) No.33435 of 2018 titled as "Sh. Anantdeep Singh vs. the High Court of Punjab and Haryana at Chandigarh and Another" against the judgment dated 25.10.2018 of this Court. While disposing of the appeal, Hon'ble Supreme Court, vide judgment dated 20.4.2022, had set aside the impugned order dated 25th October 2018 and the order passed by the Principal Secretary to Government, Punjab, Department of Home Affairs and Justice on 17th December, 2009 terminating the services of the appellant and requested the Full Court of this Court to reconsider the matter.

The matter was reconsidered by Hon'ble Full Court in its meeting held on 16.09.2022 and it was resolved that the matter be referred to Hon'ble Recruitment and Promotion Committee (Subordinate Judicial Services) for examining the same and report. After thoroughly re-examining the matter in entirety particularly the observations of the then Administrative Judge contained in note dated 01.12.2009 as also the report of District and Sessions Judge dated 20.05.2009 and the fact that the officer was merely a probationer and the decision was taken within the prescribed period, at this stage the Committee is not in a position to come to any different conclusion on the basis of material on record. Thus, the Committee reiterates its earlier decision dated 04.12.2009.”

2.12. As the matter was further delayed and no decision was being taken and that the appellant had not been taken back in service despite the termination order having been set aside, the appellant filed M.A. No.655 of 2023, which was disposed of by order dated 04.05.2023, requesting the Full Court of the High Court to decide the matter within three months. It was thereafter that the Full Court of the High Court in its meeting

dated 03.08.2023 resolved to reiterate its earlier decision dated 07.12.2009, terminating the services of the appellant.

2.13. The appellant filed a petition before this Court under Article 32 of the Constitution of India registered as W.P.(Civil) No.976 of 2023 which was allowed to be withdrawn with liberty to explore other legal options which may be available to move before the High Court vide order dated 22.09.2023. The said order is reproduced hereunder:

“Mr. P.S. Patwalia, learned senior counsel does not wish to press this writ petition under Article 32 of the Constitution and would explore other legal options which may be available to move the High Court.

Taking note of the above submission of the learned senior counsel, the writ petition stands dismissed as not pressed, reserving the liberty as aforesaid.”

2.14. The appellant in the meantime approached the High Court under Right to Information Act,

2005 requesting for a copy of the letter dated 04.03.2022 written by the counsel for the High Court to the Registrar General. This letter was made available on 11.10.2023. It was thereafter that the present M.A. was filed on 31.10.2023.

2.15. During the pendency of the said M.A. and when the State of Punjab was also called upon to be served with the copy of M.A., vide order dated 29.01.2024 and with the matter being listed on several occasions, the State of Punjab passed an order dated 02.04.2024 terminating the services of the appellant with retrospective effect i.e. 17.12.2009. The said order dated 02.04.2024 has been filed along with I.A. No.110912 of 2024.

3. It is on the above set of facts that we have heard Shri P.S. Patwalia, learned senior counsel appearing for the appellant, Shri Nidhesh Gupta, learned senior counsel appearing for High Court of Punjab and Haryana and Shri Gaurav Dhama,

learned Additional Advocate General for the State of Punjab.

4. The submissions advanced by Shri P.S. Patwalia are to the effect that the judgment and order of this Court dated 20.04.2022 has not been complied with by the respondents. The respondents ought to have taken back the appellant in service and thereafter proceeded to take the decision as directed by this Court. Further it was submitted that it took almost two years for the respondents to take a fresh decision. During this period, the appellant has neither been reinstated in service nor been paid any salary, no arrears have been paid from 17.12.2009, the date of the earlier termination order even though the same had been set aside by this Court.

5. It was also submitted by Mr. P.S. Patwalia that this Court in all its humility had not quashed the decision of the Full Court but having given serious thought to it, had clearly observed that this Court

was of the considered view that the Full Court of the High Court of Punjab and Haryana needs to reconsider this matter which in itself is a clear indication that this Court had expressed its view on the resolution of the Full Court regarding termination of the appellant's service to be not sustainable. It was thereafter that this Court had set aside the judgment of the High Court dated 25.10.2018 and the Termination order dated 17.12.2009.

6. It is also submitted on behalf of the appellant that the RPC and also the Full Court of the High Court have simply reiterated their earlier resolutions and as such there has been no reconsideration of the matter, the resolutions placed on record are also non-speaking.
7. It is also the submission of Mr. Patwalia that the complaint against the appellant was given by his wife and his mother-in-law. The entire contents of the reports submitted by the District and Sessions

Judge and also the Administration Judge and the Review Committee are based on the complaint made by the wife and his mother-in-law. No independent enquiry was conducted, nor any show cause notice was issued to the appellant calling upon him to give a response to the complaint made by his wife and mother-in-law.

8. It was also submitted that the main allegations made by the wife and mother-in-law relates to the appellant carrying on an illicit relationship with the lady judicial officer. The other complaints alleged were of residing outside the official accommodation and of using a private car, which did not belong to him. It was also alleged in the complaint that the appellant had threatened and assaulted his wife. All the other allegations apart from the main allegations of illicit relationship with the lady judicial officer, were linked to the aforesaid main allegation.

9. The High Court, on the judicial side in the case of the lady judicial officer, found that there was not even any remote evidence regarding their illicit relationship and that the statement of the wife could not be taken as a gospel truth to throw the said lady judicial officer out of service, and it was found to be totally unjust. The findings recorded by the High Court in the judgment dated 26.10.2018 with respect to the illicit relationship is reproduced hereunder:

“At the outset, we are at a loss to find even remote evidence about any illicit relationship from the above except use of the word “illicit relations”. That apart, her mere statement/perception like a gospel truth could not be acted upon to throw the appellant out of service. That was totally unjust”

10. It was submitted that once the complaint of the wife and mother-in-law of the appellant were not found to be credible and truthful with respect to the allegations of an illicit relationship, any reliance placed upon the said complaints with respect to minor allegations of using a private car

not belonging to the appellant and of threatening and assaulting cannot be relied upon without there being any further corroboration. No reliance can be placed on the said complaints at all.

11. Mr. Patwalia thus submitted that this Court may not only allow the M.A. as prayed but may also consider setting aside the Termination order now passed on 02.04.2024 with retrospective effect from 17.12.2009 and reinstate the appellant back in service with full back wages and all consequential benefits.

12. It is also submitted that there could not have been any backdating of the Termination order being made effective from a previous date. The Termination order can be effective only from the date it is served on the employee. As such the order dated 02.04.2024 deserves to be quashed.

13. Mr. Patwalia has relied upon the judgment of this Court in **State Bank of Patiala and another**

vs. **Ramniwas Bansal (dead) through Lrs.**¹; for the proposition that the dismissal order cannot be made with retrospective effect, and it would only have prospective effect.

14. Before we deal with the submissions of Mr. Nidhesh Gupta, learned senior counsel appearing for the High Court, we may mention the response of the State as put forth by Additional Advocate General. According to Mr. Gaurav Dhama the State did not pass any consequential order after the order dated 20.04.2022. He further submitted that the order dated 02.04.2024 has been passed as per the resolution of the Full Court of the High Court. He, however, did not address the issue as to whether the termination order could have been passed making it effective from an earlier date.

15. Mr. Nidhesh Gupta, learned senior counsel appearing for the High Court justified not only the subsequent compliance affected by the High Court

¹ (2014) 12 SCC 106

and also the resolution of the Full Court of the High Court to terminate the service of the appellant w.e.f. the earlier date and also the termination order issued by the State Government on 02.04.2024. On a specific query as to how the High Court could have proceeded against an officer who was not taken into service by passing a resolution of terminating the services from the previous date, he has sought to mix the issue by submitting that as the appellant was a probationer and his services were terminated as a probationer, if he was taken back in service during the period, the High Court was to take a fresh decision as required by this Court, then he would be treated as a regular employee because the period of probation under the Rules is only for a limited period of maximum three years and not beyond.

16. Mr. Gupta also had no answer as to why the High Court took one and half years to take the decision. He however expressed his inability to explain the delay on the part of the State for issue

of termination order after eight months of the resolution of the Full Court of the High Court. Mr. Gupta further addressed the Court raising the point that any preliminary enquiry conducted to ascertain the suitability of a probationer and if termination follows without giving an opportunity, it will not be bad and will be a case of motive. In effect, the submission is that the probationer's service could be dispensed with without holding a formal enquiry or giving an opportunity to the probationer and the employer was well within his right to dispense the service of the probationer by conducting the preliminary enquiry to ascertain the suitability. In this connection, he has placed reliance upon the following judgments:

- i. **State of Punjab vs. Balbir Singh**² ;
- ii. **State of Punjab and others vs. Sukhwinder Singh**³ ;

² (2004) 11 SCC 743

³ (2005) 5 SCC 569

- iii. **State of Punjab and others vs. Rajesh Kumar⁴** ;
- iv. **Bishan Lal Gupta vs. State of Haryana⁵** ;
- v. **State of Punjab vs. Sukh Raj Bahadur⁶** ; and
- vi. **High Court of Patna vs. Pandey Madan Mohan⁷** .

17. Mr. Gupta, while further addressing on merits, submitted that it was not just the allegation of having illicit relationship with lady judicial officer but there were other very serious allegations which were unbecoming of a judicial officer and since the appellant was a probationer, the Full Court of the High Court found him unsuitable for continuing in service and accordingly he was dismissed from the service.

18. He further submitted that in the case of the lady judicial officer whose petition was allowed by

⁴ (2006) 12 SCC 418

⁵ (1978) 1 SCC 202

⁶ (1968) 3 SCR 234

⁷ (1997) 10 SCC 409

the High Court and has since been reinstated to the service, the only allegation against the said lady judicial officer was of carrying on an illicit relationship with the appellant which the High Court found was without any basis or supporting material. According to him, in the present case, the High Court in the judgment dated 25.10.2018 had clearly held that it was omitting the allegations of illicit relation with the lady judicial officer from consideration and further relied upon other allegations of misconduct or unsuitability against the appellant and therefore, the appellant cannot claim any advantage or benefit from the judgment in the case of the lady judicial officer.

19. Having considered the submissions advanced, at the outset, we make it clear that we are not entering into the merits of the matter i.e., the reconsideration by the High Court in the Full Court meeting held on 03.08.2023 and the termination letter issued by the State on 02.04.2024. These orders could be tested before the High Court by way of a fresh writ petition to be

filed by the appellant and such liberty having been granted by this Court in the writ petition under Article 32 of the Constitution of India filed by the appellant which was withdrawn on 22.09.2023. For the above reason, the case laws relied upon by Mr. Gupta are not being dealt with nor are we dealing with the case laws relied upon by Mr. Patwalia.

20. We are only dealing with the M.A. No.267 of 2024 where the appellant has prayed that he should be reinstated into service as Civil Judge with all consequential benefits in view of the order dated 20.04.2022 passed by this Court allowing the appeal.

21. Once the termination order is set aside and judgment of the High Court dismissing the writ petition challenging the said termination order has also been set aside, the natural consequence is that the employee should be taken back in service and thereafter proceeded with as per the directions. Once the termination order is set aside then the employee is deemed to be in service. We

find no justification in the inaction of the High Court and also the State in not taking back the appellant into service after the order dated 20.04.2022. No decision was taken either by the High Court or by the State of taking back the appellant into service and no decision was made regarding the back wages from the date the termination order had been passed till the date of reinstatement which should be the date of the judgment of this Court. In any case, the appellant was entitled to salary from the date of judgment dated 20.04.2022 till fresh termination order was passed on 02.04.2024. The appellant would thus be entitled to full salary for the above period to be calculated with all benefits admissible treating the appellant to be in continuous service.

22. Insofar as the period from 18.12.2009 i.e., after the termination order of 17.12.2009 was passed till 19.04.2022 the date prior to the judgment and order of this Court, we are of the view that ends of justice would be served by directing that the appellant would be entitled to 50

percent of the back wages treating him to be in service continuously. Such back wages to be calculated with all benefits admissible under law to the appellant as if he was in service.

23. Insofar as the challenge to the resolution of the Full Court of the High Court dated 03.08.2023 and termination order dated 02.04.2024 is concerned, the appellant would be at liberty to challenge the same by way of a writ petition before the High Court which may be decided on its own merits totally uninfluenced by any observations made in this order. The facts and observations made are only with respect to the disposal of the M.A. No.267 of 2024.

24. M.A. stands disposed of accordingly.

.....**J.**
(VIKRAM NATH)

.....**J.**
(PRASANNA BHALACHANDRA VARALE)

NEW DELHI
SEPTEMBER 06, 2024