

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.4262 of 2015

Date of Decision.29.07.2015

Punjab State and another

.....Petitioners

Versus

Ashok Oberoi

.....Respondent

Present: Ms. Vandana Malhotra, Addl. A.G., Punjab
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The revision petition filed by the State is untenable to waste resources of the Government. It is a case where the termination order effected in the year 1997 was brought in challenge by means of a suit. The suit was dismissed. The appeal filed by the employee was allowed on 23.12.2002 finding the order of termination to be illegal providing the benefit of reinstatement with continuity of service to provide only the back wages for the period he did not work.

2. The judgment delivered by the Appellate Court was brought in challenge by means of a second appeal by the State to this Court and it had also obtained an order of stay of enforcement of the order directing reinstatement. The employee had attained the age of superannuation in the year 2009 and it appears that the second appeal filed by the State was also dismissed. Subsequent to the order of High

Court, it appears that the State has passed now a fresh order allowing

the superannuation to work itself and denying to him the wages upto the year 2009 when he was superannuated by an order. The execution petition has been filed by the employee seeking for computation of wages for the period he was not allowed to work and when there was a stay in operation. The claim has been made from the year 17.01.1997 but the Executing Court has allowed for the computation of wages to be effective from 23.12.2002, the day when the Appellate Court passed the judgment directing reinstatement but denying to him, however, the right of back wages.

3. I find the order passed by the Court below to be appropriate and correct. There is no scope for modification. Learned counsel appearing on behalf of the State would contend that the back wages has already been denied to the employee when he did not work and since he had not worked by virtue of the order of stay, the wages will be denied to him. It is meaningless for State to make a virtue of appeal filed by the State which was ultimately dismissed. The back wages which could be denied, could be only for the period before the Appellate Court passed the judgment allowing the appeal filed by the employee. If a workman had the benefit of relief of reinstatement and the State could have given effect to it, it could have passed a fresh order in the manner directed by the Appellate Court. If the State was feeling itself aggrieved about the direction contained in the judgment and brought a challenge before this Court then a right to pass fresh order which can take away accumulated wages is also lost, for, there existed no employer-employee relationship after the date of superannuation. The order passed subsequent to the superannuation denying to him the

backwages is incompetent.

4. The order passed by the Court below is perfectly justified and there is no scope for intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

July 29, 2015
Pankaj*