

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.2359 of 1994
Date of Decision: August 05, 2015

State of Punjab and another Appellants

Versus

Harbhajan Singh Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.K.K.Gupta, Addl.A.G., Punjab.

Mr. Manmeet Singh Rana, Advocate
for the respondent.

RITU BAHRI, J. (Oral)

The State of Punjab has come in appeal against the judgment of the trial Court dated 03.04.1992 and judgment of the lower Appellate Court dated 12.04.1994 whereby the suit of the plaintiff-Harbhajan Singh had been decreed and the orders Ex.P1 and P4 to P10 declared as void orders and the plaintiff was entitled to pay fixation on the length of his service.

The plaintiff was working as Conductor under the control of Transport Department, Government of Punjab since 1977. His pay scale Rs.400-800 was revised to 950-1800, after the report of the 3rd Pay Commission. However, the pay of the plaintiff was not fixed at the right place in the scale of Rs. 950-1800. His basic pay is fixed at Rs.950/-

whereas he was entitled to draw more than Rs. 1200/- as his basic pay. He had thus instituted this suit for declaration that the impugned orders stopping his annual increments with or without cumulative effect was against the principles of natural justice. Terms and conditions of employment are void and inoperative as these were not conveyed to him. The defendants, upon notice, filed the written statement stating that the suit is time barred; not maintainable in the present form and no valid notice under Section 80 CPC was served upon the defendants.

On the pleadings of the parties, the following issues were framed :-

1. Whether the suit is not maintainable in the present form?
OPD
2. Whether the suit is time barred? OPD
3. Whether no notice under Section 80 CPC has been served upon the defendants? OPD
4. Whether the orders stated in para No.4 of the written statement are illegal, void and not binding on the plaintiff? OPP
5. Relief

The plaintiff has challenged 12 punishment orders in the civil suit. Four orders are as under :-

P2 : two increments with cumulative effect were stopped.

P3 : two increments with cumulative effect were stopped.

P11 : one increment with cumulative effect was stopped.

P12 : two increments with cumulative effect were stopped.

The above said orders were found to have been passed after following due procedure and were held to be legal and valid orders. After perusal of the enquiry file, it is found that before passing these orders, the plaintiff was served with a charge sheet, holding a domestic enquiry and after issuing a show cause notice and giving personal hearing. The impugned orders were duly conveyed to the plaintiff. The orders Ex.P1 and Ex.P4 to Ex.P10 are found to be non speaking order. The details of the orders are as under :-

Ex.P1 : one annual increment without cumulative effect was stopped for three months.

Ex.P4 : one annual increment without cumulative effect was stopped for a period of one year.

Ex.P5 : one annual increment without cumulative effect was stopped for a period of one year.

Ex.P6 : one annual increment without cumulative effect was stopped for a period of one year.

Ex.P7 : one annual increment without cumulative effect was stopped for a period of one year.

Ex.P8 : one annual increment without cumulative effect was stopped for a period of one year.

Ex.P9 : one annual increment without cumulative effect was stopped for a period of one year.

Ex.P10 : one annual increment without cumulative effect was stopped for a period of one year.

Though the above said orders were found to be minor

punishment but these are non speaking orders and these were set aside.

A Division Bench of this Court in **LPA No.896 of 2012 titled as “FCI & another Vs. Harbhajan Dass, 2013 (4) SLR 414** has held that in case of minor punishment imposed by way of disciplinary action, it is imperative upon the disciplinary authority to assign reasons, while setting aside the orders given in paragraph 11 of this judgement. Paragraph 11 of the judgment reproduced as under :-

“In our considered view, no interference with the order(s) under appeal is called for. We say so for the reason that even in the case of minor punishment imposed by way of disciplinary action, it is imperative upon the disciplinary authority to assign reasons as to why the explanation given by the delinquent was unacceptable or the imposition of penalty justified. A self-speaking order is an integral part of the principles of natural justice and fair play. The order of punishment in a domestic enquiry may not be akin to a judgement of the Court but ought to meet with the defence plea. The conclusion of punitive action in a mechanical manner or without supporting reasons would suffice to declare the action illegal and arbitrary. No effort was made in the instant case to dislodge the explanation rendered by the respondent. Once the order of punishment falls flat, it is not the case of the appellants that there was any other incriminating material on

record against the respondent to form a bona fide opinion of unsatisfactory work or conduct while he was on probation. No exception can thus be taken to the view formed by the learned Single Judge”.

In the facts of the present case, this Court is of the view that the orders Ex.P1, P4 to P10 imposing minor punishment upon the plaintiff/respondent were non speaking. In view of the judgment passed in ***Harbhajan Dass's case (supra)***, the suit of the plaintiff/respondent decreed. No illegality, much less perversity has been found in the impugned judgments warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

August 05, 2015
anju

(RITU BAHRI)
JUDGE