

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

RSA No.3977 of 2013 (O&M)

Date of Decision.14.09.2015

Ex. Constable Ranbir Singh

.....Appellant

Versus

The State of Punjab and others

.....Respondents

Present: Mr. S.S. Kainth, Advocate for
Mr. R.K. Arya, Advocate
for the appellant.

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.

1. Delay of 2 days in filing the appeal is condoned.
2. The plaintiff in the suit is the appellant before this Court.
The plaintiff had filed the suit challenging the order of termination from services after a departmental enquiry as null and void and violative of principles of natural justice. Admittedly, a departmental enquiry had been held and the plaintiff had been dismissed from service for proven misconduct by an order dated 08/07/1990. He preferred an appeal and the appellate authority namely the Inspector General of police dismissed the appeal on 18.10.1990. He challenged the same by means of a suit in civil suit No. 243 and took up the plea that the departmental enquiry had not been conducted by applying the principles of natural justice. This plea was rejected and the suit was dismissed on 28/05/1998. It would appear that even apart from filing a civil suit, he had filed a revision petition before the departmental authority and the revision came to be dismissed on 07/01/1997. The said fact was not brought to the

knowledge of the court but the civil court dismissed the suit after a full fledged trial. The plaintiff has preferred an appeal against the judgment of the civil court and the appellate court also dismissed the appeal on 06/12/2000. Parallel to the proceedings in civil court, the plaintiffs appears to have filed a mercy petition before a still higher authority and the mercy petition was disposed of in the year 2007. The present suit came to be filed suppressing the fact of the initial round of litigation and the dismissal of his suit and the dismissal of appeal filed by him. The defendant took a plea that the suit was barred by res judicata. The issue of whether the departmental enquiry conformed to the principles of natural Justice or not and whether the dismissal was bad in law had been considered on merits and become final between the parties. Consequently, according to the defendant the suit was barred by res judicata.

3. The trial court as well as appellate court have found that the mere fact that the plaintiff had filed the mercy petition and it was dismissed subsequently after the disposal of the suit and appeal before the civil courts cannot give a fresh cause of action. The plaintiff is still aggrieved and is before this court in second appeal.

4. There is simply no merit in the appeal. The point of law as regards the applicability of res judicata has been correctly dealt with by the two courts below. The second appeal is dismissed as raising no substantial question of law.

(K. KANNAN)
JUDGE

September 14, 2015
Pankaj*