

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 1319 of 2015 (O&M)
Date of decision:- 08.04.2015

State of Haryana and others

...Appellants

Versus

Dani Ram

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Siddharth Sanwaria, DAG, Haryana
for the appellant.

RITU BAHRI J.

C.M. No. 3715-C of 2015

For the reasons mentioned in the application,
delay of 24 days in filing the present appeal is condoned.

The application stands disposed of accordingly.

R.S.A No. 1319 of 2015

The present regular second appeal is directed
against the judgment dated 29.11.2014 passed by the
learned Addl. District Judge Kurukshetra, whereby the appeal
filed by the plaintiff-respondent against the judgment and
decree dated 11.11.2013 passed by the learned Civil Judge,
Junior Divn. Kurukshetra, was allowed.

The respondent was working as Inspector, Food
and Supplies Department in District Kurukshetra. He retired
from Government service on 30.04.2008 vide order dated
23.04.2008. A charge sheet dated 19.01.1998 was pending

on 30.04.2008 against the respondent and the decision of the charge sheet was conveyed vide order dated 19.10.2009. The pensionary benefits i.e gratuity and commutation of pension etc has not been paid to the respondent whereas the due date was 30.04.2008. The respondent/plaintiff was seeking quashing of charge sheet dated 19.01.1998 and the decision dated 19.10.2009 being illegal, null and void.

The appellants contested the suit by filing joint written statement and have taken preliminary objections regarding maintainability of the suit. On merits, it was asserted that the respondent retired from the post of Inspector, Food and Supplies, P.R. Centre Thol, Distt. Kurukshetra on 30.04.2008 after attaining the age of superannuation and after his retirement, it has come to the notice of appellant No. 3 that as per order dated 07.10.2009 issued by respondent No. 2, a recovery of an amount of Rs.55,537/- was to be recovered from the respondent on account of damage of wheat pertaining to the crop year 1983-84 of P.R. Centre, Kaithal where the respondent was posted on 2nd set of keys. The respondent was found involve in a case of shortage of wheat of Ganaur Centre, District Sonapat during the period 2003-04, where he is remained posted as second set of keys and is thus responsible for the loss and his share in the loss was found to be Rs.7,80,624/-,

which was to be recovered from him. The trial Court dismissed the suit of the respondent/plaintiff.

However on appeal filed by the respondent, the lower Appellate reversed the findings given by the trial Court and allowed the appeal by decreeing the suit of the respondent/plaintiff.

The Lower Appellate Court examined the case of the respondent on the following issues:-

1. Whether the plaintiff is entitled for decree of mandatory declaration as prayed for? OPP
2. Whether the plaintiff is entitled for decree of mandatory injunction as prayed for? OPP
3. Whether the suit is maintainable? OPD
4. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
5. Whether the plaintiff has concealed the true and material facts from the Court? OPD

The lower Appellate Court decreed the suit of the respondent and the respondent was held entitled to get released his entire amount to gratuity, commutation of pension and other retiral benefits along with interest @ 18% per annum from the date, the amount became due till actual payment. It was held that the department had suffered loss of Rs.55,357/- during the period 21.04.1982 to 13.09.1983 and the penalty was imposed upon the respondent vide

order dated 19.10.2009. The department had taken action at a very belated stage and no explanation was given regarding the delay. As per deposition of D.W.1 Lekh Raj, Enquiry Officer, he had exonerated the respondent/plaintiff in the inquiry proceedings. Once the Enquiry Officer had exonerated the respondent/plaintiff, the department fell in error in passing the order dated 07.10.2009 for recovery of an amount of Rs.55,357/- after the respondent retired on 30.04.2008. The entire departmental proceedings stood vitiated as held by Hon'ble the Supreme Court in cases titled as ***State of Andhra Pradesh v. N. Radhakishan, 1998(4) SCC 154 and State of M.P v. Bani Singh 1990 (Suppl.) S.C.C 738 and M.V. Bijlani v. Union of India 2006(5) SCC 88*** wherein there was an inordinate delay in initiation of disciplinary proceedings.

In the present case, the appellants failed to show any reasonable cause as to why the charge sheet could not be served upon the respondent earlier.

Further Hon'ble the Supreme Court in a case of Bhagirathi Jena vs. Board of Directors, O.S.F.C and others AIR 1999 (3) SCC 666 has held that disciplinary proceedings could not have been continued beyond the date of the superannuation.

Thus, the judgment passed by the Lower Appellate Court is based upon the consistent view taken by Hon'ble the Supreme Court where the departmental

proceedings had been quashed, being initiated after an inordinate delay.

The judgment passed by the lower Appellate Court does not require any interference by this Court as no substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed

April 08, 2015
G Arora

(RITU BAHRI)
JUDGE