

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

**RSA No.1621 of 2015 (O&M)
Date of decision: 30.09.2015**

The State of Punjab and others ... Appellants

Vs.

Gurmej Singh ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Piyush Bansal, DAG, Punjab
for the appellants.

Mr. S.K.Sharma, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

C.M.No.4504-C of 2015

For the reasons stated in the application, duly supported by an affidavit, delay of 282 days in filing the appeal, is condoned.

C.M. stands disposed of.

RSA No.1621 of 2015 (O&M)

Challenge in the present appeal is to the judgment and decreed dated 16.04.2014 passed by the lower Appellate Court, whereby, the judgment and decree of the trial Court has been modified and the claim of the plaintiff vis-a-vis pensionary benefits for the period of 38 months has been restored.

Mr. Piyush Bansal, learned Deputy Advocate General, Punjab appearing on behalf of the appellants submits that services of the respondent-plaintiff, who, was appointed as Conductor have been terminated on 12.5.1981. The aforementioned order was challenged and the same vide order dated 21.08.1985 was set aside,. During the interregnum, he was taken back in service, with a rider that in case the appeal filed by the State is allowed, he would have been deemed to be out of service. Since the appeal was allowed and his services were again terminated on 01.08.1986. The suit had been filed in the year 2006. Though the trial Court decreed the suit and directed the appellant-State to pay pensionary benefits to the plaintiff by counting his total service from 31.8.1966 till 22.5.1981, as per rules. The Lower Appellate Court restored the claim of the plaintiff qua 38 months as the suit was ex facie time barred.

On the other hand, Mr. S.K.Sharma, learned counsel appearing on behalf of the respondent supported the judgments and decrees passed by both the Courts below.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below.

The lower Appellate Court while hearing the appeals filed by the plaintiff and defendants dismissed the appeal of the respondent-plaintiff but partly allowed the appeal of defendants by modifying the decree of the trial Court on the premise that he cannot be debarred from getting pension as on the date of termination, he

had already completed more than 14 years of service and as per Rule 6.12 of the Punjab Civil Service Rules, Chapter 6, after rendering of 10 years service, employee is entitled to receive pension. Though, the plaintiff is entitled to get pension on the basis of his total service w.e.f. 31.8.1966 to 22.5.1981 but it is clarified, that he shall be entitled to pensionary benefits only for the period of 38 months prior to the date of filing of the suit.

I do not find any illegality and perversity in the finding as it cannot be said to be confirming substantial questions of law for interference under Section 100 of the CPC.

In view of what has been observed above, there is no merit in the appeal. Accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

September 30, 2015

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