

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

**R.S.A. No. 2058 of 2015 (O&M)
Date of decision : 13.05.2015**

State of Haryana through Collector, Kurukshetra & ors ...Appellants

versus

Nasib Singh ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Siddharth Sanwaria, DAG, Haryana

RITU BAHRI , J. (Oral)

C.M. No. 5392-C of 2015

For the reasons mentioned in the application, delay of 60 days
in filing the present appeal, is condoned.

The application stands disposed of

R.S.A. No. 2058 of 2015

State has come up in Regular Second Appeal against the
concurrent findings of facts recorded by both the Courts below whereby the
suit of the respondent was decreed.

The respondent was serving under the appellants as Driver in
depot Haryana Roadways, Kurukshetra, Tehsil Thanesar, District Kurukshetra.
F.I.R No. 181 dated 05.06.1998 was registered against the respondent under
Sections 279/304-A IPC at Police Station Pundri and thereafter, vide order
dated 26.06.1999, the respondent was charge sheeted under Rule 7 and
proper enquiry was conducted. The respondent gave reply to the charge

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sheet on 09.07.1999. On 16.05.2000, the respondent refused to cross examine the witness in the enquiry despite opportunity given to him. Vide order dated 25.09.2008/01.10.2008, penalty of stoppage of 03 increments with cumulative effect, was imposed upon him by the appellants. Thereafter, vide order dated 26.03.2009, the respondent was acquitted by the learned Session Judge, Kaithal in the above mentioned F.I.R and it was observed that it was one Ved Prakash who was driving the car negligently and not the present appellant.

On notice, the appellants appeared and on merits they pleaded that the punishment of stoppage of three annual increments with cumulative effect has been imposed upon the respondent by conducting proper inquiry and by giving him personal hearing. The enquiry against him was conducted by duly appointing an enquiry officer. He participated in the inquiry.

From the pleading of the parties, the trial Court framed the following issues:-

- “1. Whether the plaintiff is entitled to relief of declaration as prayed for? OPP*
- 2. Whether the plaintiff is entitled to relief of mandatory injunction as prayed for? OPP*
- 3. Whether the plaintiff has not come to this Court with clean hands? OPD*
- 4. Whether the plaintiff is estopped by his own act and conduct to file the present suit ? OPD*

5. *Whether the suit is not maintainable? OPD*
6. *Whether the suit is time barred? OPD*
7. *Whether this Court has no jurisdiction to entertain and try the present suit ? OPD*
8. *Relief.”*

The trial Court after going through the entire evidence led by the parties held that the respondent had been given sufficient chances to represent his case before the enquiry officer. The enquiry was conducted after due procedure as per the norms of natural justice and the respondent did not file any appeal against the order passed against him.

The next question for consideration before the trial Court was that after the respondent has been acquitted in criminal proceedings, what would be the effect of departmental proceedings. It has been held that the standard of proof in departmental proceeding is lower than that of criminal prosecution. It is equally settled that the departmental proceedings or for that matter criminal cases have to be decided only on the basis of evidence adduced therein. Thus, after the acquittal of the respondent in criminal proceedings, he cannot be punished for the same offence again when he was not found negligent.

On the question of limitation, it was held that the punishment order was passed on 1.10.2008 will have recurring effect on the salary of the respondent. Reference has been made to Yog Raj Mittal since deceased through his LR's v. State of Punjab and others, wherein it is held that arrears were restricted to the extent of 38 months proceeding the date of filing the

suit as it is a continuous cause of action and at the end of every year or time at which increment is to be provided, a new cause of action accrues.

Accordingly, the suit of the respondent was decreed to the effect that the impugned order dated 25.09.2008/01.10.2008 are set side and the respondent is entitle to get all arrears from the appellants from the date of filing the suit.

The judgment passed by the trial Court was affirmed by the Lower Appellate Court.

After going through the judgments passed by both the Courts below, no substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

(RITU BAHRI)
JUDGE

13.05.2015

G Arora