

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

RSA No.2176 of 2015 (O&M)
Date of Decision.09.10.2015

State of Punjab and othersAppellants
Versus
Rattan Lal, J.E. (retired)Respondent

Present: Ms. Vandana Malhotra, Addl. A.G., Punjab
for the appellants.

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. (ORAL)

C.M. No.10130-C of 2015

For the reasons stated in the application, order passed by this Court on 17.08.2015 is recalled and the second appeal is restored to its original number.

Application is allowed.

C.M. No.5693-C of 2015

For the reasons stated in the application, delay of 74 days in filing the appeal is condoned.

Application is allowed.

RSA No.2176 of 2015

1. The appeal is by the State against the decree in favour of the respondent-plaintiff challenging the recoveries made against a retired employee. The suit was filed on the ground that he had retired on 30.11.2002 and the recoveries sought to be effected subsequent to his retirement by levying a chargesheet on 12.12.2005 was not

competent. The State's defence was that they had the power to initiate action on detection of any loss within a period of four years from the date of retirement.

2. This was a case where the loss was assessed during the time when he was still in service and the Executive Engineer had directed recoveries to be effected against the employee through his proceedings dated 13.05.2002, that was, the period when he was already in service. If there was an advice for recoveries and the department had to effect the same, they ought to have engaged the plaintiff in departmental action during the time when he was in service. The period of four years would be available only in cases where the detection of the offence or theft or loss was done only subsequent to his retirement. In a situation where the so-called loss was assessed even during the service, unless the superannuation itself was made subject to constitution of an enquiry after a chargesheet, the department will lose any such right, for the right of action through the departmental proceedings will be available only during the subsistence of relationship of employer and employee. If he had been allowed to retire without any condition and the chargesheet was again levied only on 12.12.2005, it was wholly incompetent. The approach of the Courts below is justified and there is no scope for interference.

3. There exists no substantial question of law in favour of the appellant-State. The second appeal is dismissed.

(K. KANNAN)
JUDGE

October 09, 2015
Pankaj*