

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5403 of 2015(O&M)
Date of Decision: October 6, 2015

State of Punjab and another

..... Appellants

Versus

Pritam Ram

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Chaudhary, Additional Advocate
General, Punjab for the appellants.

Amit Rawal, J (Oral)
CM No.12865-C of 2015

This is an application under Section 5 of Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 166 days in filing the appeal is condoned.

The application stands disposed of.

RSA No. 5403 of 2015(O&M)

The Punjab State is in Regular Second Appeal against the judgment and decree dated 18.9.2014 rendered by the Additional District Judge, Jalandhar whereby the appeal filed by the respondent, against the dismissal of the suit, has been allowed and suit has been decreed.

Mr. Amit Chaudharly, Additional Advocate General, Punjab, submits that the lower appellate court has committed illegality and perversity in granting the declaration that the order dated 28.7.2006 passed by the Secretary to Government of Punjab, Transport Department, Chandigarh, communicated to the plaintiff on 8.8.2006, vide which the appeal against the order dated 8.4.2005 passed by the Director State Transport, Punjab, Chandigarh has been dismissed and a penalty of stoppage of one annual grade increment with cumulative effect having been imposed is illegal.

He submits that the trial court found that the delinquent official, prima facie, indulged into embezzlement of ₹16/- by not issuing tickets to the passengers being conductor and allegations in the charge sheet had been proved by holding an enquiry and on the basis of the report of the enquiry officer, the aforementioned punishment of stoppage of one annual grade increment with cumulative effect had been imposed. The trial court noticed that proper opportunity was granted to the plaintiff and from perusal of cross examination it revealed that plaintiff had already availed the remedy as per rules, therefore the suit had rightly been dismissed.

I have heard learned counsel for the appellant and appraised the paper book.

In my view the appellate court had given a cogent finding that neither the enquiry officer nor the authorities, while entertaining the appeal, noticed that inspecting team did not count the amount lying in the pocket of the appellant as well as in the box.

It is a matter of record that there were only two passengers who were not issued the tickets. It was for department to see whether it was not issued negligently or deliberately. The aforementioned charges have not been proved and therefore the imposition of penalty aforementioned was not called for. However, while allowing the appeal liberty has been granted to the department to conduct the enquiry as per the rules. The operative part of the finding rendered by the Additional District Judge is as under:-

“Therefore, this court is of the opinion that judgment under appeal is liable to be set aside and appeal is accepted. Issues No.1 to 3 are decided in favour of appellant and against the respondents. In case department feels that inquiry was not conducted as per rules, department is at liberty to deal with the monitor aspect from its recovery from the appropriate person who was responsible for misconduct of the inquiry and subsequent orders. Decree sheet be drawn. Appeal of file be consigned to the Record Room, Jalandhar. Copy of the judgment of this Court be placed on the file of learned lower court and be sent to the Successor Court of Ms. Tripatjot Kaur, the then CJJD, Jalandhar for due consignment.”

In view of the aforementioned observations, I do not intend to differ with the judgment and decree aforementioned, much less entertain the appeal on the premise that it suffers from any illegality or perversity.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 6, 2015
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