

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

**CM No.3933-C of 2015 in/and
RSA No.3444 of 2014 (O&M)
Date of decision: 20.04.2015**

Vijay Kumar

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Seema Arora, Advocate,
for Mr. C.M. Munjal, Advocate,
for the applicant-appellant.

Ritu Bahri, J.

CM No.3933-C of 2015

The application is for restoration of the main appeal, which was dismissed on 12.03.2015 due to absence of the appellant as well as his counsel.

For the reasons recorded in the application, the main appeal i.e. RSA No.3444 of 2014 is restored to its original number and taken up today itself for disposal.

Misc. application stands allowed accordingly.

RSA No.3444 of 2014

Plaintiff-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below i.e. Civil Judge (Senior Division), Ferozepur and the Additional District Judge, Ferozepur, whereby his suit has been dismissed.

Vijay Kumar-plaintiff (appellant herein) filed a suit for declaration

alleging therein that on 08.11.1989, he joined the department as a constable. He was a regular and permanent member of the force and his services were governed by the Punjab Police Rules and Punjab Civil Services (Punishment & Appeal) Rules, 1970. In the year 2002, a departmental inquiry was initiated against the plaintiff-appellant with the allegation that FIR No.24 dated 06.04.2002, under Sections 420/465/468 IPC was registered against him at Police Station, Ferozepur Cantt. on the ground that at the time of entry in Government service, he had produced a false certificate showing that he belonged to Scheduled Caste category, whereas he was *Khatri* by caste. Due to these allegations, he was dismissed from service vide order dated 25.09.2003 passed by the Senior Superintendent of Police, Ferozepur. His appeal against this order, was dismissed by the Deputy Inspector General of Police, Ferozepur Range, Ferozepur vide order dated 23.09.2004.

Upon notice, defendant-respondents filed written statement and controverted the allegations levelled by the plaintiff-appellant in his suit.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether order dated 25.09.2003 passed by the SSP, Ferozepur and order dated 23.09.2004 passed by DIG, Ferozepur Range are illegal, null and void and are liable to be set aside? OPP
2. Whether the plaintiff is entitled for declaration as prayed for? OPP
3. Whether the plaintiff is entitled for consequential relief as prayed for? OPP
4. Whether the suit is within limitation? OPP
5. Whether plaintiff has no cause of action or locus standi to file

this suit? OPD

6. Whether this suit is not maintainable in its present form? OPD

7. Relief.

Learned trial Court had dismissed the suit of the plaintiff-appellant by observing that both the dismissal orders were speaking orders and the plaintiff had been dismissed after following necessary procedure under the Punjab Civil Services (Punishment & Appeal) Rules, 1970. The defendant-department had made stern efforts by sending number of notices (Ex.D1 to Ex.D10) to the plaintiff-appellant calling upon him to join the enquiry proceedings. Some of the notices were served upon the plaintiff and his wife. Finally, he was proceeded ex-parte and thereafter, the impugned orders were passed. In his cross-examination, the plaintiff-appellant had admitted that FIR No.24 dated 06.04.2002, under Sections 420/465/468 IPC was registered against him and he was convicted in that case on 02.06.2006 and was sentenced to undergo rigorous imprisonment for 6 months under Section 465 IPC and rigorous imprisonment for three months under Section 468 IPC. He also admitted that appeal against the said order was also dismissed.

The lower appellate Court affirmed the findings recorded by the trial Court and dismissed the appeal of the plaintiff-appellant.

Since the plaintiff-appellant had secured appointment in the Police Department on the basis of fake certificate, he cannot be allowed to retain/get the benefit of the wrong(s) committed by him. His services have been rightly terminated by the competent authority after following due procedure in accordance with law.

Having examined the impugned judgments passed by the Courts

below, no illegality, much less perversity, has been found therein, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

20.04.2015
ajp

(RITU BAHRI)
JUDGE