

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

RSA NO.677 OF 2015 (O&M)
DATE OF DECISION : 24th FEBRUARY, 2015

Punjab & Sind Bank

.... Appellant

Versus

Amarjit Singh Bhatia

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. R. Kartikeya, Advocate for the appellant.

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SURINDER GUPTA, J. (ORAL)

1. Learned counsel for the appellant argues that the respondent was chargesheeted on 28.01.1998 for his misdemeanor and an enquiry was conducted, which led to his dismissal vide order dated 25.05.2001. He filed departmental appeal on 17.07.2000 and the appellate authority after considering his appeal and all the other facts relating to his service career vide order dated 04.04.2002 modified the punishment order from dismissal to compulsory retirement on humanitarian grounds.

2. The plaintiff-respondent filed a civil suit wherein the appellant was directed to count the period of 23.12.1997 to 04.04.2002 towards pensionary benefits of the respondent. The appeal filed by the appellant was also dismissed by Additional District Judge, Patiala.

3. Learned counsel for the appellant has argued that it was the dismissal order dated 25.05.2000 which was modified by the appellate authority as such respondent who was not in service of the appellant from

that date cannot get the benefit of the period from 25.05.2001 to 04.04.2002 to be counted towards his pensionary benefits. He has relied upon the observations of Rajasthan High Court made in the case of ***Umraomal & others versus State of Rajasthan***, reported as ***AIR 1955 Raj 6***, in support of his contention that when the order has been modified a modification relates to the date of original order.

4. On giving careful thought to the submission of learned counsel for the appellant, I find no substance therein for the reasons as follows:

- (i) That the remedy of departmental appeal was available to respondent which he had availed and the order passed by the Appellate Authority was to be effective from the date it was passed.
- (ii) That the order of dismissal was converted into compulsory retirement vide order dated 04.04.2002 passed by the Appellate Authority and the compulsory retirement of the respondent would take place from the date of the order and not retrospectively w.e.f. 25.05.2000.
- (iii) The Appellate Authority while passing the order dated 04.04.2002 has nowhere ordered that the period from 25.05.2000 to 04.04.2002 will not be considered towards pensionary benefits of the respondent.

5. The citation referred by learned counsel for the respondent relates to the modification of the rules by the Rajasthan Government under Section 13 of the Preventive Detention Act of 1950 where the period of

detention was altered from 12 days to 30 days. This citation has no bearing on the facts and circumstances of the case in hand.

6. Learned counsel for the appellant further argues that the respondent had submitted the documents claiming pension from the date of his order of dismissal, as such, he stood estopped from claiming pension from the date of the order of Appellate Authority.

7. The above argument of learned counsel for the appellant also has no substance. After being out of service, the respondent was bound to submit pension papers as per the dictates of the appellant who were disputing his claim based on the appellate order. A person in penury follows the dictate of his employer to get whatever relief he could get. The claim raised by the respondent is to be considered legally and not on the basis of pension papers submitted by him and both the Courts after proper appreciation of the facts and law have rightly reached the conclusion that he is entitled to get his period of service from 23.12.1997 to 04.04.2002 considered for his pensionary benefits.

8. As a sequel of my observations above, no substantial question of law arises in this appeal which has no merits.

9. Dismissed.

24th February, 2015
'raj'

(SURINDER GUPTA)
JUDGE