

RSA No. 5593 of 2014 (O&M)

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

RSA No. 5593 of 2014 (O&M)

Date of Decision: August 31, 2015

Sunder Lal

...Appellant

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Sandeep Lather, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.13294-C of 2014

Prayer in this application is for condonation of delay of 69 days in filing the appeal.

It has been contended that the applicant/appellant/plaintiff had filed an application to the Member, State Legal Services Authority, Chandigarh, requesting therein that he is unable to engage a counsel and therefore the appeal may be filed on his behalf. The said application was sent to the concerned Lok Adalat Branch by the Registrar General of High Court on 12.08.2014 and thereafter, counsel was engaged from the panel and the appeal has been filed which resulted in 69 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 69 days in filing the appeal stands condoned.

RSA No. 5593 of 2014 (O&M)

RSA No. 5593 of 2014

Challenge in this appeal is to the judgments and decree dated 25.03.2011 passed by the Civil Judge (Junior Division), Patiala and dated 24.03.2014 passed by the Additional District Judge, Patiala, vide which suit for declaration that the office order No.345 dated 23.09.2005 passed by the Executive Engineer, Water Supply and Sanitation, Mechanical Division, Patiala is illegal, *ultra vires*, unconstitutional and violative of principles of natural justice and thus, cannot be sustained, stand dismissed.

It is the contention of the counsel for the appellant-plaintiff that the appellant-plaintiff was appointed in the respondent-department on 20.06.1975 and was working on the post of Truck Cleaner. FIR No.116 dated 13.05.1996 under Sections 302 and 201 IPC was registered against the appellant-plaintiff. After the trial in Session Case No.29 of 15.06.1996, decided on 10.10.2000, he was convicted and sentenced to undergo rigorous imprisonment for life and to pay a fine of ₹5,000/- under Section 302 IPC and under Section 201 IPC, he was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹1,000/-. He filed Criminal Appeal No.570-DB of 2000 against the judgment passed by the Sessions Judge which was dismissed by the Division Bench of this Court. The appellant-plaintiff was suspended on 20.05.1996. He was dismissed from from service after his conviction, on 23.09.2005 with retrospective effect from the date of

his conviction i.e. from 10.10.2000. It is asserted that since he had completed more than 10 years of service and as a matter of fact total length of service to his credit prior to order of dismissal was 20 years, he is entitled to the benefit of compulsorily retirement instead of dismissal. He contends that since the dismissal order has been passed by the Executive Engineer, whereas, his suspension order was passed by the Superintending Engineer, the order of dismissal, thus, cannot sustain.

This contention of the counsel for the appellant-plaintiff cannot be accepted in the light of the admitted fact that the appellant-plaintiff has been convicted under Sections 302 IPC and 201 IPC which involve moral turpitude. The punishment order being in accordance with the statutory rules, the findings recorded by the Courts below cannot be faulted with.

As regards the submission that the order of suspension was passed by the Superintending Engineer, whereas, the dismissal order is by the Executive Engineer, would not make any difference. The disciplinary authority under the statutory rules governing the service is the Executive Engineer and thus, the dismissal order is by the Competent Authority.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

RSA No. 5593 of 2014 (O&M)

No substantial question of law is involved in the present appeal which requires consideration of this Court. There being no violation of the statutory rules governing the service of the appellant-plaintiff, finding no merit in the present appeal, the same stands dismissed.

August 31, 2015
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE