

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

124

Regular Second Appeal No.6328 of 2014 (O&M)
Date of Decision: September 08, 2015

Om Pal

...Appellant

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. N.K. Malhotra, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.15129-C of 2014

There is a delay of 111 days in re-filing the appeal.

For the reasons mentioned in the application, which is supported by an affidavit, the delay of 111 days in re-filing the appeal is condoned.

Application stands disposed of.

CM No.15130-C of 2014

Prayer in this application is for condonation of delay of 361 days in filing the appeal.

The reason assigned for the delay is that that counsel before the Lower Appellate Court after receiving the judgment passed by the Court did not inform the appellant about the order. He had been approaching the counsel and his Clerk for supplying him the copy of the judgment and the other documents but the same were not supplied. When he confronted the counsel that he would file a complaint against him, the documents were

supplied in January, 2014 and thereafter he approached the counsel in the High Court and the present appeal was filed, which resulted in delay of 361 days in filing the appeal. The application is supported by an affidavit.

In view of the above, the application is allowed.

Delay of 361 days in filing the appeal stands condoned.

RSA No.6328 of 2014

Challenge in this appeal is to the judgments and decree passed by the Additional Civil Judge (Senior Division), Bahadurgarh, dated 29.10.2010 by which the suit of the appellant-plaintiff for declaration for declaring the inquiry report and the order dated 28.09.2000 passed by the Superintendent of Police, Jhajjar, by which he was demoted to the post of Constable from Head Constable and the order dated 17.11.2002 passed by the Inspector General of Police, Rohtak Range, Rohtak, by which the punishment was reduced to stoppage of two increments without cumulative effect and the order dated 31.03.2005 passed by the Director General of Police, Haryana, rejecting his mercy petition are illegal, null and void, stands dismissed and the appeal preferred against the said judgment has been dismissed on 05.02.2013 by the Additional District Judge, Jhajjar.

2. The appellant-plaintiff was working on the post of Head Constable. On the intervening night of 16/17.06.2000, he along with another Constable Subhash was on patrolling duty on motorcycle when they found Shri Bhagwan Dass Sharma carrying cement without any bills. Shri Bhagwan Dass Sharma was beaten in the Police Post and was allowed to go only after taking bribe of ₹3,000/- from him. In the inquiry held by the Inspector Ranbir Singh, charge of bribe was not proved but charge of unnecessary harassment was proved after issuance of the charge sheet.

Order of punishment of reversion to the rank of Constable was passed by the Superintendent of Police, Jhajjar, after following the Rules/Instructions. On an appeal preferred by him, the said punishment was reduced to stoppage of two increments without cumulative effect by order dated 17.11.2002. Revision/mercy petition preferred by the appellant was dismissed on 31.03.2005. The net result thereof is that the punishment of stoppage of two increments without cumulative effect stands imposed upon the appellant-plaintiff for unnecessary harassment of Shri Bhagwan Dass Sharma.

3. It is the contention of the counsel for the appellant-plaintiff that the inquiry report, which has ultimately become the basis for imposing the punishment, is not sustainable as there is no evidence against the appellant-plaintiff qua the charges. He contends that the consequential orders of punishment imposed by the various authorities thus do not deserve to be sustained.

4. I have considered the submissions made by the counsel for the appellant-plaintiff and have gone through the judgments passed by the Courts below with his assistance.

5. Concurrent findings have been recorded by the Courts below that there is no illegality or irregularity committed by the authorities while imposing the punishment upon the appellant-plaintiff. It has also been stated that there is evidence in support of the findings recorded by the Inquiry Officer in his inquiry report. The Courts have rightly held that the Civil Court does not sit as an Appellate Authority and its jurisdiction is limited to the extent that the principles of natural justice are duly complied with and there is no violation of the statutory rules/regulations applicable to the

service under which the employee is being sought to be punished.

6. In the light of the categoric findings given by the Courts below and that too concurrent, no interference in the said findings is called for in the present appeal. Further, there is no substantial question of law which arises in the present appeal, which would call for interference by this Court.

7. Finding no merit in the present appeal, the same stands dismissed.

September 08, 2015

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**(AUGUSTINE GEORGE MASIH)
JUDGE**