

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2189 of 1988 (O&M)

Date of Decision:- 30.08.2016.

Gurmail Singh

.....Appellant

Versus

State of Punjab, Secretary Transport Department, Government of Punjab,
Chandigarh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. S.S. Narula, Advocate for the appellants.

Mr. Rahul Verma, AAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

The appeal was dismissed on 13.3.2013. The appellant filed review application which was numbered as RA-RS-22-C-2013. The same was allowed on 7.4.2015 while restoring the RSA No.2189 of 1988.

Learned counsel for the appellant submitted that in the disciplinary proceedings, the respondents have not adhered Sub-Rule 3 and Sub-Rule 8 of Rule 8 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970. It was further contended that it is a case of no evidence. Further submitted that having regard to the charge levelled against the appellant, order of termination penalty is disproportionate to the charge. Learned counsel for the respondents submitted that Appellate Court has considered each of the contentions raised by the appellant. The appellant has not made out a case as to how he has been prejudiced if there is any violation of Rule. In para 8 of the Appellate Court order, it was held that even if some proper procedure was not adopted as provided in Rule 8.11 of

The Punjab Civil Services (Punishment and Appeal) Rules, 1970. Therefore, there is no infirmity in the order of the Appellate Court. During the pendency of this litigation, certain developments have taken place, namely, as soon as the Trial Court set aside the order of termination on 30.4.1986, appellant was reinstated on 20.6.1986 and he continued to be in service. He was promoted to the next higher cadre and attained age of superannuation and retired from service on 28.2.2014. In view of these developments, the penalty of termination could be modified by imposing penalty other than compulsory retirement.

Heard learned counsel for the parties.

Perusal of the dates and events, it is necessary to remand the matter to the disciplinary authority to modify the penalty from termination to that of any other penalty other than the compulsory retirement penalty for the reasons that the appellant has already attained age of superannuation and retired from service on 28.2.2014. Therefore, question of imposing the penalty of reduction in rank and compulsory retirement is impracticable. Hence, the disciplinary authority/competent authority is directed to modify the penalty of termination to any other penalty other than what has been stated supra. The order of Trial Court is modified to the above extent. The competent authority is directed to take decision within a period of six months from today.

Appeal stands disposed of.

(P.B. BAJANTHRI)
JUDGE

August 30, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.