

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

331

RSA No. 474 of 1989 (O&M)**Date of decision: 17.08.2016**

State of Punjab through Collector Gurdaspur and another

.... Appellants

Versus

Gurdial Singh

.... Respondent

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Rupam Aggarwal, DAG, Punjab.

None for the respondents.

P.B. Bajanthri, J. (Oral)

Present appeal has been preferred by the State of Punjab assailing the order of the trial Court as well as Appellate Court dated 08.01.1988 and 12.09.1988. Respondent-Gurdial Singh, Ex-Conductor while he was in service he was subjected to two disciplinary proceedings. After completion of enquiry proceedings by single order he has been dismissed from service on 26.04.1985.

2. Feeling aggrieved by the order of dismissal he filed suit before the trial Court. On 08.01.1988 trial court decreed suit in favour of respondent-Gurdial Singh. The appellants preferred an appeal before the appellate Court. The appellate Court modified the order in respect of back wages is concerned that the petitioner is not entitled and the reasoning

assigned by the trial court has been reversed.

3. Appellant aggrieved by the order of the appellate court, presented this appeal.

4. Learned counsel for the appellant submitted that reasoning assigned by the trial Court has been reversed. Consequently, the order of dismissal of the respondent should have been upheld. The other reasoning assigned by the appellate Court delay in enquiry may not be reasons for setting aside of penalty.

5. Perusal of the record it is evident that respondent-Gurdial Singh before commencement of enquiry requested for furnishing certain documents. The same was not furnished nor had he been given endorsement stating that those documents which have been sought by him are relevant or irrelevant. Therefore, the trial court rightly decreed the suit in favour of the respondent. The appellate court reversed the reasoning assigned by the trial court stating that the respondent has submitted his reply to the show cause notice on two occasions which suffice that there is no requirement of furnishing documents sought by the respondent. Further the appellate Court held that having regard to the delay in holding the disciplinary proceedings and other circumstances, the respondent is entitled for reinstatement without back wages. In view of these facts and circumstances, the respondent-Gurdial Singh has not preferred appeal against the appellate Court order. The respondent is stated to have been reinstated and he has taken voluntary retirement. All his service benefits have been settled. In view of these later developments and the fact that there is a violation of principle of natural justice in not furnishing documents sought by the respondent before commencement of enquiry, it is

sufficient to held that enquiry proceedings are vitiated. Therefore, no interference is called for in respect of appellate court order dated 12.09.1988.

6. Appeal stands dismissed.

17.08.2016

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No

(ii)

RSA No. 548 of 1989 (O&M)
Date of decision: 17.08.2016

Gurdial Singh

.... Appellant

Versus

State of Punjab through Collector Gurdaspur and another

.... Respondents