

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

375

RSA No. 1192 of 1991 (O&M)**Date of decision: 08.08.2016**

The State of Punjab through Collector, Jullundur

.... Appellant

Versus

Surinder Singh

.... Respondent

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

Present: Mr. Neeraj Yadav, AAG, Punjab.

Mr. Siddhant Kant, Advocate for the respondent.

P.B. Bajanthri, J. (Oral)

In the present appeal, appellant-State of Punjab has assailed order dated 21.12.1990 of the appellate court by which their appeal against the decree dated 07.12.1989 has been rejected.

2. The workman was a Conductor. He was subjected to disciplinary proceedings which were concluded in imposing one or the other penalty on 14.01.1982, 20.10.1983, 28.08.1984 and 30.09.1987. The suit was filed in the month of January, 1988. The suit was decreed in favour of the workman. Consequently, appeal was filed by the appellant-State of Punjab. Learned State counsel submitted that the trial Court as well as appellate Court has erred in not appreciating the limitation issue in respect

of challenging the orders dated 14.01.1982, 20.10.1983 and 28.08.1984. On this preliminary issue of limitation, decision of the trial court as well as appellate court are to be set aside. In so far as setting aside the order dated 30.09.1987 by which appellate has imposed the penalty of stoppage of increment without cumulative effect is concerned, it was submitted that it was a minor penalty. Therefore, enquiry need not be held and he has been punished by imposing minor penalty. Hence, both trial court as well as appellate court orders' are without application of mind.

3. Per contra, learned counsel for the respondent submitted that against order dated 14.01.1982, 20.10.1983 and 28.08.1984, he was making representations to the authorities. Therefore, question of limitation do not arise. In so far as stoppage of increment without cumulative effect vide order dated 30.09.1987 is concerned even though it is a minor penalty. The allegations are serious which are to be proved in a regular enquiry. In the absence of holding of any enquiry on the allegations one cannot be punished.

4. Heard. Learned counsel for the parties.

5. In so far as challenge to orders dated 14.01.1982, 20.10.1983 and 28.08.1984 is concerned it is barred by limitation. The workman slept over the matter. Thus, on the ground of delay and laches respondent's claim is to be rejected. In so far as order dated 30.09.1987 is concerned workman has been punished by imposing the penalty of stoppage of increment without cumulative effect is without holding any enquiry. Even if the disciplinary authority intends to impose minor penalty having regard to the serious allegation or charge, the enquiry cannot be by passed or the disciplinary authority cannot sidetrack the disciplinary proceedings.

Ultimately, imposition of penalty of stoppage of increment without cumulative effect would be civil consequences there would be financial implications. Therefore, without hearing the workman and proving the charge against him in a domestic enquiry the disciplinary authority cannot impose the penalty.

6. In view of these facts and circumstances, the appeal is allowed in part in so far as setting aside the order dated 14.01.1982, 20.10.1983, 28.08.1984 are concerned, the punishment orders are upheld while modifying the trial court as well as appellate court orders. The punishment order dated 30.09.1987 is set aside.

7. Appeal stands disposed of.

08.08.2016

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No