

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

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**RSA No. 1352 of 1991 (O&M)
Date of decision: 31.08.2016**

State of Punjab and others

.... Appellants

Versus

Kamal Kishore

.... Respondent

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

Present: Mr. Rahul Verma, AAG, Punjab.

None for the respondents.

P.B. Bajanthri, J. (Oral)

Matter called twice but none appears on behalf of the respondent.

2. In the instant appeal, the appellant-State of Punjab has questioned the validity of both the orders of the trial Court dated 21.07.1990 as well as appellate court dated 07.01.1991.

3. The respondent who was a Conductor in the Punjab Roadways was subjected to disciplinary proceedings in 7 cases. All are concluded in imposing penalty of withholding of increments with or without cumulative effect vide Ex. P5 to P9 and D2 and another penalty order dated 05.05.1977. All the 7 orders were challenged in a suit filed by the respondent before the trial Court on 21.07.1990. The trial Court passed the following order:-

“RELIEF

14. In view of my findings on the above issue, the suit of the plaintiff with regard to the orders Ex.P5 & D2 is dismissed. However, his suit is decreed for declaration to the effect that he is entitled to the fixation of his pay on the basis of his length of service with the defendants as is he successfully earned all the increments of pay as and when the same became due by ignoring the impugned orders Ex.P6 to P9 and order dated 05.05.1977 which are held to be illegal void and non-est. The defendants are also directed through mandatory injunction to fix the pay of the plaintiff accordingly with all consequential benefits. Plaintiff is also allowed the cost of the suit from the defendants. Decree sheet be prepared. File consigned in the record room.

Announced in the open court.”

4. The Trial Court order was confirmed by the appellate court on 21.07.1990. Learned counsel for the appellant submitted that except Ex.D2 dated 28.12.1987, and Ex.P9 dated 26.08.1987 rest of the orders are time barred. Therefore, the trial Court order dated 21.07.1990 is to be set aside so also appellate court order in so far as belated orders are concerned. Perusal of the records, it is evident that trial court should not have entertained the suit on the ground of limitation insofar as Ex.P5 to P8. Perusal of Ex. P9, which is a half page order and in a cyclostyled form which has been filled up by the disciplinary authority. On the face of the record, it is evident that it is a non-speaking order. In a disciplinary proceedings, while exercising quasi judicial function under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 speaking/reason order is to be passed. Ex.P9 is liable to be set aside to that extent that the trial Court

order is modified while upholding Ex. P5 to P8 on the ground of limitation.

5. Appeal stands allowed in part.

31.08.2016
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No