

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

391

**RSA No. 1579 of 1991 (O&M)
Date of decision: 12.12.2016**

State of Punjab and others

....Appellants

Versus

Roshan Lal Chanana

.... Respondent

(ii)

**RSA No. 1652 of 1991 (O&M)
Date of decision: 12.12.2016**

Roshan Lal Chanana

....Appellant

Versus

State of Punjab and others

.... Respondents

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

Present: Mr. T.N.Sarup, AAG, Punjab.

Mr. Satya Pal Jain, Sr. Advocate with
Mr. Dheeraj Jain, Advocate and
Mr. Vijay Kumar Chaudhary, Advocate
for the appellant in RSA No. 1652 of 1991 and
for respondent in RSA No. 1579 of 1991.

P.B. Bajanthri, J. (Oral)

These two appeals were filed by the State of Punjab and Roshan
Lal Chanana questioning the validity of order passed by the Additional

District Judge, Jalandhar dated 18.03.1991.

2. Roshan Lal- appellant was a regular holder of the post of JBT Teacher in the Education Department, State of Punjab. While he was working in the year 1964 he was charge sheeted on the allegation that he was actively participated in the R.S.S. activities. The inquiry proceedings were initiated till reply to the show cause notice and Inquiry Officer's report. Thereafter, no final order was passed.

3. Appellant -Roshan Lal applied leave during the period from 1967 to 1972. When he returned from leave, he was not taken back to duty. Thus, he filed suit before the trial court to declare to be treated in service as JBT School Teacher and to extend service benefits including the monetary benefits. The suit was dismissed on 26.10.1988. Consequently, the appellant-Roshan Lal filed an appeal before the appellate court. The appellate court allowed the appeal however, denied the back wages. Thus, the appellant-Roshan Lal presented this RSA insofar as entitlement of back wages is concerned. On the other hand, State of Punjab questioned the entire order of the appellate court dated 18.03.1991.

4. Learned counsel for the appellant-Roshan Lal submitted that the appellate court has recorded that charge sheet was filed in participating in R.S.S. activities. Inquiring officer was appointed. Thereafter, the disciplinary authority issued show cause notice on 30.09.1966 for which Roshan Lal had submitted his reply to the show cause notice. Consequently, disciplinary authority did not proceed to pass final order. Therefore, the appellant is entitled to back wages for the intervening period. It was further

submitted that no doubt the appellate court has recorded that the appellant was working at the relevant point of time in another department. Such finding is only for a limited period. The appellant was not allowed to work from 1972 onwards. Hence, the appellant is entitled for back wages.

5. On the other hand, learned counsel for the appellant-State of Punjab in the connected RSA submitted that the appellant was working in some other department therefore he is not entitled for back wages. It was further contended that the appellant was subjected to disciplinary proceedings and from 1972 onwards, the appellant has not worked therefore, he is not entitled to get any relief for the intervening period for the purpose of extending service benefits as well as monetary benefits. Since he has not worked.

6. Heard learned counsel for the parties.

7. State of Punjab initiated disciplinary proceedings in the year 1964 and proceeded to appoint Inquiring officer and matter reached up to the stage of receipt of reply to the show cause notice. Thereafter, the State of Punjab/disciplinary authority failed to pass final order. Till date disciplinary authority has not passed the final order. Apparently for the reasons that RSS organization is not one of the banned organization. In fact Supreme Court in the case titled as ***V.S. Menon versus Union of India*** reported in 1963 AIR 1160 held that participation in a political party does not amount to misconduct.

8. In view of these facts and circumstances, for no fault of the appellant-Roshal Lal denial of back wages is arbitrary and illegal. He is

entitled for back wages for the intervening period. Thus, the appeal filed by Roshan Lal is allowed while modifying the appellate court order dated 18.03.1991. The State of Punjab is directed to verify whether appellant-Roshan Lal was gainfully employed elsewhere as recorded by the appellate court for the entire intervening period or not. Further for non-working period the appellant-Roshan Lal be paid back wages and disburse the same along with interest @ 6% per annum within a period of 6 months from today.

9. RSA No. 1579 of 1991 filed by the State of Punjab is rejected and RSA No. 1652 of 1991 filed by the Roshan Lal Chanana is allowed while modifying the order of the Appellate court dated 18.03.1991 to the above extent.

12.12.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No