

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 1338 of 2013 (O&M)

Date of Decision: - 26.4.2016

The Director General of Police and othersAppellants

versus

Satbir Singh

.....Respondent

**CORAM: - HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

**Present: - Mr. Ankur Mittal, Additional AG, Haryana
for the appellants.**

**Mr. Satbir Rathore, Advocate
for the respondent.**

.....

Rajesh Bindal, J.

Challenge in the present appeal is to the order passed by learned Single Judge dated 11.1.2013 in the case of the respondent whereby he challenged the order dated 19.8.1994 (Annexure P-2) dismissing him from service and subsequent orders dated 14.12.1994 (Annexure P-4) and 12.7.1996 (Annexure P-6) upholding the order of dismissal in appeal and revision. The Authorities while passing the order of dismissal did not consider the fact that the respondent had almost 13 years of service at the time of dismissal. The Court considered it appropriate to convert the order of dismissal into compulsory retirement w.e.f. 19.8.1994.

Learned counsel for the appellants submitted that the material fact was not brought to the notice of the learned Single Judge at the time of hearing of the writ petition namely

that subsequently the respondent was taken back in service vide order passed by Director General of Police, Haryana on 29.12.2004 and the period of absence and dismissal till 29.12.2004 was treated to be leave without pay. After accepting the conditions laid down, the respondent joined the services. Subsequently, he was placed under suspension with effect from 1.3.2005 on account of his willful absence from duty. After the inquiry the period of absence was treated as leave without pay and he was re-instated. Again the respondent was placed under suspension on 17.5.2005 for his willful absence from duty and after conducting due inquiry he was dismissed from service vide order dated 21.6.2006. There is nothing on record to suggest as to whether the respondent preferred any appeal or availed of any other remedy against the order of dismissal dated 21.6.2006.

Considering the aforesaid facts which have been placed on record in the present appeal in the form of an affidavit of Shashank Anand, Superintendent of Police, Rohtak, in our opinion when the respondent was already taken back in service after withdrawal of his dismissal order and the period of absence was treated as leave without pay, the prayer made in the writ petition had infact become infructuous. Subsequently, no adjudication on merits as such was required. The Court had to go into the process of adjudication as the State failed to bring before the Court complete facts of the case.

Be that as it may, considering the fact that the State had infact withdrawn the order of dismissal of the respondent, later on, he was re-instated in service, the writ petition had become infructuous. In view of the aforesaid fact, the appeal is allowed. The order passed by the learned Single Judge is set aside. The writ petition filed by the respondent is dismissed as infructuous. For the lapse on the part of the State for not bringing the complete facts before the Court at the time of hearing of the writ petition, the State is burdened with the costs of ₹ 25,000/- to be deposited with the Punjab and Haryana High Court Employees Association within one month from the date of receipt of copy of the order.

(RAJESH BINDAL)
JUDGE

26.4.2016
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(HARINDER SINGH SIDHU)
JUDGE