

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

RSA No. 3062 of 2013 (O&M)

Date of Decision : 28.07.2016

Manohar Lal Arya

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.S. Bains, Advocate for the appellant.

Mr. Anil Mehta, Deputy Advocate General, Haryana.

Mr. Sunil Kumar Sharma, Joint Director in person.

P.B. Bajanthri, J.(Oral)

In the present appeal, the appellant has questioned the order of the Appellate Court dated 11.03.2013. Insofar as giving liberty to the punishing authority to proceed with the inquiry after giving second show cause notice along with disagreement note within a reasonable time and after giving proper opportunity to make his representation and defend himself.

Brief facts of the case are that the appellant was subjected to disciplinary proceedings. He was punished on 08.07.1999 i.e. order of recovery of Rs. 14,41,787/-. He had filed an appeal before the Appellate authority. The same was rejected on 23.05.2003. Consequently he had approached this Court and filed CWP No. 8089 of 2004. This court refused to entertain petition on the score that disputed question of facts are involved

in the petition and with an observation that the petitioner may if so advised, seek remedy before Civil Court. Thus, the petitioner filed a suit before the trial Court. Trial Court decreed the suit in favour of the petitioner on 30.04.2009. The Department-appellants (herein) aggrieved by the order of Trial Court filed an appeal before the Appellate Court. Appellate Court modified Trial Court order to the extent of giving liberty to department to proceed with the inquiry and consequential procedures. The appellants aggrieved by the order by the Appellate Court, presented this appeal.

During pendency of the appeal, punishing authority on 13.05.2016 implemented the order of the Appellate Court dated 11.03.2013 by imposing the same penalty.

Learned counsel for the appellant pointed out from the order dated 13.05.2016 that there is no consideration of his pleas, which are raised in the reply to second show cause notice.

Perusal of order dated 13.05.2016, it is evident that there is no application of mind by the respondents, who has passed the order. The respondents are suggested to withdraw the order dated 13.05.2016 and re-consider the reply to the second show cause notice and proceed for passing final order. The respondents are directed to re-consider each and every plea raised in the reply to second show cause notice and the same shall be recorded before passing the final order.

In view of the above development, the present appeal do not survive for consideration. Disposal of the present appeal would not come in the way of challenge to the final order to be passed by the punishing

authority by the appellant herein.

With these observations, the present appeal stands disposed of.

July 28, 2016.
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(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No