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

**RSA No.271 of 2016 (O&M)
Date of decision: January 27, 2016**

Kashmir Kaur

.....Appellant

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Inderjit Sharma, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration to the effect that she was entitled for grant of family pension on account of death of her husband-Surinder Singh.

The case of the appellant, in brief, was that her husband-Surinder Singh was serving with the defendants and had deserted the family w.e.f. 07.05.2005. Surinder Singh, however, continued serving the defendants. In the month of November 2006, Surinder Singh was got admitted in Civil Hospital, Pathankot and was discharged from the Hospital on 17.12.2006 on account of his deteriorating condition and died on 22.12.2006. Information regarding death of Surinder Singh was given to the defendants and request was made that pensionary benefits be released to the appellant being widow of Surinder Singh. Defendants released the amount of gratuity, General Provident Fund (GPF) etc. but did not grant

family pension to the appellant. Hence, the suit was filed.

Defendants in their written statement averred that Surinder Singh husband of the appellant was working under them, but had disappeared on 02.09.2002. Surinder Singh reported for duty on 10.03.2005 and again absented on 07.05.2005 and did not report for duty thereafter. The matter was reported to the police authorities but Surinder Singh failed to join his duty nor could be apprehended by the police. Thereafter, disciplinary proceedings were initiated against Surinder Singh. However, Surinder Singh never responded to the charge-sheet and public notice was issued in the newspaper asking Surinder Singh to show cause as to why his services be not terminated. However, Surinder Singh did not join the inquiry proceedings and order dated 20.03.2006 was passed, whereby, Surinder Singh was removed from services.

On the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the plaintiff is entitled to decree of declaration that she is entitled to all the services as well as retiral benefits of her deceased husband including family pension with interest @ 18% per annum?OPP
2. Whether the plaintiff is entitled to decree of mandatory injunction to release the aforesaid benefits with interest?OPP
3. Whether the civil court has no jurisdiction to entertain and try the present suit?OPD
4. Whether the plaintiff has got no cause of action to file the present suit?OPD

5. Whether the plaintiff has got no locus standi to file the present suit"OPD
6. Whether the suit is not maintainable in the present form?OPD
7. Relief."

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 16.02.2012 dismissed the suit of the appellant-plaintiff. The said judgment/decreed were upheld by the First Appellate Court vide judgment/decreed dated 07.07.2015 in an appeal filed by the appellant-plaintiff. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the appellant and have gone through the record available on the file carefully.

In the present case, Surinder Singh-husband of the appellant had absented from duty from 02.09.2002 to 10.03.2005. Thereafter, again husband of the appellant absented from duty w.e.f. 07.05.2005. Defendants left with no option, initiated departmental proceedings against Surinder Singh. Since despite notice, Surinder Singh failed to join the inquiry proceedings, the disciplinary authorities imposed the penalty of removal from services vide order dated 20.03.2006. Defendants after adopting due process of law had passed the punishment order. There is nothing on record to suggest that the punishment order Exhibit D8 was passed without following due process of law.

The scope of judicial review regarding interference with punishment order is very limited. The jurisdiction of this Court is only to see the method/manner of awarding punishment. The Court is only concerned with the procedure adopted by the Punishing Authority. If the procedure adopted by the Punishing Authority is according to rules and natural justice, then no interference with the punishment order is called for. This Court cannot go into the merits of the case. In case, the finding of the Inquiry Officer is based on some evidence, then the Court cannot re-appreciate the evidence or weigh the same like the Appellate Authority. So long as there is some evidence in support of the conclusion arrived at by the departmental authority, the same has to be sustained. Some defect in the inquiry has to be pointed out before this Court can interfere with the punishment order. Further more, if defect is pointed out then the delinquent employee has to show as to what prejudice has been caused to him on account of the said defect. The Court exercising jurisdiction of judicial review is not to interfere with the finding of the fact arrived at in a departmental inquiry excepting in a case of mala fide or perversity.

Since in the present case, Surinder Singh had been removed from the services after following due process of law, the Courts below rightly held that the appellant was not entitled for grant of family pension.

No substantial question of law arises in this case

warranting interference by this Court.

Dismissed.

(SABINA)
JUDGE

January 27, 2016
mahavir