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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RSA No.144/2016 and C.M. No.20538/2016 (stay)

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29th September, 2016

UNION OF INDIA & ORS.

..... Appellants

Through: Mr. Vivek Goyal, CGSC.

versus

SATINDER SINGH JAT

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. No one appears for the respondent in spite of the matter having been passed over.

2. The subject suit was filed by the respondent/plaintiff who was a constable in Central Industrial Security Force (CISF) questioning the order passed by the disciplinary authority whereby he was removed from the services. The Trial Court by its Judgment dated 15.10.2013 had decreed the suit by setting aside the Order of the Disciplinary Authority dated 30.12.1998 and the Appellate Authority's Order dated 16.7.1999. The first appellate court has dismissed the appeal of the present appellants/defendants.

3. Learned counsel for the appellants/defendants relies upon a recent judgment passed by this Court in the case of ***Union of India & Ors. Vs. Shri Ishwar Singh*** in RSA No.26/2016 decided on 5.9.2016 to argue that the suit itself was not maintainable as the civil court had no jurisdiction in view of Rule 57 of the CISF Rules, 2001 and also that the suit would be barred by the general principle of *res judicata* as held in the judgment in the case of ***Shri Ishwar Singh (supra)***. I have allowed the counsel for the appellants/defendants to argue this fresh issue of non-maintainability of the suit because the issue goes to the root of the matter and disentitlement of a civil court to try the subject suit filed by the respondent/plaintiff.

4. For the purpose of this Regular Second Appeal, the following substantial question of law is framed:-

“Whether the suit filed by the respondent/plaintiff and who was a constable in CISF, questioning the Orders of the Disciplinary Authority dated 30.12.1998 and the Appellate Authority dated 16.7.1999, was not barred in view of Rule 57 of the CISF Rules and general principle of *res judicata* as held in the judgment in the case of ***Union of India & Ors. Vs. Shri Ishwar Singh*** in RSA No.26/2016 decided on 5.9.2016?”

5. I am not reproducing the paras of the judgment of this Court in the case of ***Shri Ishwar Singh (supra)*** to avoid prolixity, however, it is seen that in the judgment in the case of ***Shri Ishwar Singh (supra)***, it has been held that since orders which are passed under Sections 8 and 9 of the Central

Industrial Security Force Act, 1968 by the disciplinary authority and the appellate authority are statutory orders, any challenge to such statutory orders can only be by means of filing of a writ petition in this Court under Article 226 and/or Article 227 of the Constitution of India and the jurisdiction of a civil court would be barred. In the case of ***Shri Ishwar Singh (supra)***, it has been held that since the suit is barred, the respondent/plaintiff will have opportunity to approach this Court under Article 226 and/or Article 227 of the Constitution of India and in which proceedings, such respondent/plaintiff would have benefit of the principle contained in Section 14 of the Limitation Act, 1963.

6. In view of the above, adopting the ratio of the judgment in the case of ***Shri Ishwar Singh (supra)***, it is held that the suit filed by the respondent/plaintiff in a civil court was barred by Rule 57 of the CISF Rules and also that the suit would be barred by the general principle of *res judicata*. Suit of the respondent/plaintiff therefore would stand dismissed but liberty granted to the respondent/plaintiff to approach this Court under Article 226 and/or Article 227 of the Constitution of India questioning the orders of the authorities under Sections 8 and 9 of the CISF Act with the benefit of the principle contained in Section 14 of the Limitation Act.

7. This Regular Second Appeal is therefore allowed and disposed of in terms of the aforesaid observations. Parties are left to bear their own costs.

SEPTEMBER 29, 2016
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VALMIKI J. MEHTA, J

