

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

RSA No.1105 of 1993 (O&M)
Date of decision: July 10, 2017

State of Punjab

....Appellant

Versus

Const. Dulla Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Sudeepti Sharma, Addl. A.G., Punjab

Ms. Shallie Mahajan, Advocate
for the respondent.

JASPAL SINGH, J.(ORAL)

The facts giving rise to the instant regular second appeal are that the respondent/plaintiff was appointed as a Constable on 21st July, 1976 by the Senior Superintendent of Police, Ludhiana and was dismissed from service vide order dated 27th August, 1985 by the competent authority. He preferred a departmental appeal before Deputy Inspector General of Police, Patiala Range challenging the order dated 27th August, 1985 which was rejected by the Deputy Inspector General of Police, Punjab, Chandigarh vide order dated 7th November, 1985. However, a revision petition preferred before the Director General of Police, Punjab, Chandigarh, the punishment of dismissal from service was modified and reduced to the forfeitures for three years of service vide order dated 14th November, 1986, accordingly, he was reinstated in service.

Thereafter, the plaintiff filed a civil suit to the following effect:-

“That the order dated 27.08.1985 of the S.P. City, Ludhiana dismissing the services of the plaintiff and order

dated 07.11.1985 of the Deputy Inspector General of Police, Patiala Range, Patiala, dismissing the appeal of the plaintiff and the order dated 14.11.1986 of the Director General and Inspector General of Police, Punjab, Chandigarh, (conveyed to him vide order dated 12.02.1987), reducing the said dismissal to forfeiture of three years service with permanent effect entailing the reduction of the pay of the plaintiff for the corresponding period are illegal, malafide, void abinitio, null and void and not binding on the plaintiff, against rules and against the principles of natural justice and the plaintiff is entitled to be considered in continuous service and is entitled to all the increments and other consequential benefits as if the said orders were not passed.”

The aforesaid suit was decreed on merits and the forfeiture of service was also *set aside* vide judgment and decree dated 3rd February, 1990 passed by Sub Judge Ist Class, Ludhiana. An appeal preferred by the State against the judgment and decree dated 3rd February, 1990 was dismissed by Additional District Judge, Ludhiana vide judgment dated 28th October, 1992.

Still feeling aggrieved, State of Punjab preferred instant regular second appeal, however, at the time of its admission, no stay of the operation of the impugned judgment and decrees passed by both the Courts below, was granted.

Since the appellant/State of Punjab did not comply with the judgment and decree passed by Courts below, the respondent/plaintiff was constrained to file an Execution Application No.24 in the month of September, 2003 during the pendency of the instant appeal in satisfaction

of the decree dated 3rd February, 1990 passed by Sub Judge Ist Class, Ludhiana, though an objection petition was filed by the State/appellant but that was dismissed and attachment orders for the implementation of the decree and execution were issued. Ultimately, the facts granted vide judgment dated 3rd February, 1990 upheld by the Additional District Judge while dismissing the appeal vide judgment dated 28th October, 1992, were released in favour of the respondent/plaintiff and accepted the same. Since the benefits granted to the respondent/plaintiff have already been released and disbursed to the petitioner and the instant appeal is pending since 1993, learned State counsel has submitted that in view of the aforesaid facts and circumstances of the case, it is not beneficial for the State to continue with the instant appeal which is pending since 1993. Thus, it would not be of any use to continue the proceedings in the instant appeal. Accordingly, she be allowed to withdraw the present appeal.

In view of the aforesaid facts and circumstances explained by learned State counsel, the instant appeal is dismissed as withdrawn.

Since the appeal has been withdrawn by the State counsel, the order dated 10.01.2017 for requisition of record or reconstruction thereof has rendered infructuous.

July 10, 2017

m. sharma

(JASPAL SINGH)

JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No