

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1477 of 1993 (O&M)

Date of Decision: 7.4.2017

State of Punjab and others

... Appellants

Versus

Ranjit Singh deceased represented through LR's

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.B.M. Vinayak, DAG, Punjab for the appellants

Mr.G.S.Bal, Sr. Advocate with
Mr.Tarun Singhal, Advocate for the respondents

....

RAJIV NARAIN RAINA, J. (Oral)

1. The misconduct of the plaintiff-respondent was enquired into in a departmental proceeding instituted against him upon a charge sheet. His application for change of enquiry officer before whom he had participated and felt insecure to obtain justice was accepted by the disciplinary authority. The newly appointed enquiry officer continued with the enquiry from where it was left by the predecessor and on conclusion of the same upon the materials adduced on record considered the evidence which proved the plaintiff guilty of the charge. The report was accepted which led to dismissal from service.

2. The plaintiff filed a suit challenging the order of dismissal. He maintained that he was not issued notice by the new enquiry officer of the further enquiry proceedings, and therefore, the enquiry was conducted behind his back which had caused serious prejudice to him. The department maintained that notice was served on him and he participated

dispute was resolved by the learned first appellate court by reversing the judgment of the learned trial court holding that Rule 22 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 had been breached, and therefore, the enquiry conducted was defective and no enquiry in the eyes of law.

3. However, the department reinstated the plaintiff into service in implementation of the decree in first appeal and then decided to file an appeal under Section 100 of the CPC before this Court. That is how the State is in appeal for setting aside the judgment and decree dated 25th November, 1992 passed by the learned Additional District Judge, Ludhiana. When the case came up for hearing on 1st December, 1993, the appeal was admitted by passing the following order:-

“Admitted.

On the question of stay, the learned counsel for the respondent contends that the plaintiff has since been permitted to join his post. Mr. Masih is not able to controvert this position. However, he prays that status quo with regard to services of the plaintiff be maintained as it obtains today. In view of the totality of circumstances, it is ordered that status quo with regard to services of plaintiff shall be maintained as it obtains today.”

4. As a result of the interim order, the plaintiff continued in service till retirement and during his first period of extension in service under the policy of the Punjab Government amending rules in 2012 he died due to illness on 22th November, 2014. The late plaintiff's legal representatives have been brought on record. Though there may be something in the State appeal as far as the law is concerned regarding the factual aspect of service of notice of enquiry with change in enquiry

officer, but it would be only a formality to answer that question because of the *fait accompli* of reinstatement and the pendency of this appeal for the last two decades and a half till the appeal has come on for final hearing today. Therefore, it would, I think, be prudent and practical not to disturb the status quo in favour of the deceased plaintiff created by the interim order to lift the order and allow the appeal or unduly impinge and on the rights of his family left behind, as the widow may be entitled to monetary benefits including family pension in case the dismissal is set aside and the period regularised to achieve the main object of this order.

5. Therefore, in the totality of the special facts and circumstances of the case and as a result of supervening events coupled with the fact that the decree stands implemented, though the State is in appeal, the status quo order dated 1st December, 1993 deserves to be made absolute to avoid any further miscarriage of justice by avoiding turning back the clock. In order to remove the obstacle from the way of the widow to receive her family pension, this Court is constrained to set aside the dismissal order without touching upon the merits of the case in appeal as that would serve no useful purpose when faced with long lapse of time. Accordingly, the judgment and decree dated 25th November, 1992 passed by the lower appellate court is made operative against the State.

6. As a result of the foregoing reasons, the appeal fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

7.4.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No