

RSA No. 21 of 1993(O&M)
Date of Decision: 27.03.2017

State of Punjab & others

...Appellants

Vs.

Devi Dass

...Respondent

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

Present: Mr. Anil Sharma, Addl. A.G. Punjab.

Mr. Prateek Mahajan, Advocate,
for the respondent(s).

RAJIV NARAIN RAINA, J. (Oral)

The total period of service rendered is only 23 days between the appointment and termination, which is rather miniscule to consider reinstatement and consequential benefits running for years together. The appeal was filed in 1993 by the plaintiff-respondent against the defendant State. This Court did not stay the termination but stayed back-wages in second appeal. This is certainly not a case for awarding back salary as it would be wholly inequitable to do so at this stage. Verily, an award should not become a reward before the labour court and a decree of the civil court a mockery. Both the Courts have faulted the termination on a mere technicality and misconception of a right that though the order of termination was simpliciter but it was passed in the background of embezzlement committed within the first 23 days of temporary service and a regular enquiry was not held though accusation was levelled. I assume that the plaintiff in those 23 days must have been a probationer Conductor in Punjab Roadways and was not a regular hand.

But that is now history because the plaintiff was taken back in service after the judgment and decree of the lower Appellate Court, dated July 22, 1992 and the department had to continue plaintiff's service which by passage of time is long drawn out enough till his superannuation in October 31, 2015 to be disturbed. Then there is hardly any life left in this appeal except for the burning issue of back salary which is alive for determination. The question is as to what is to be made of the period covered by the decree and would it bring arrears of salary for the period prior to joining as a matter of right. The answer to my mind is in the negative. For a mere technical mistake committed by a functionary of State in the case of a Conductor who showed his true colours within only 23 days of service when caught embezzling ticket fare, the State should not be burdened with undue benefit of past salary spanning the period of after termination and rejoining under court decree subject to appeal which decree had to be implemented by the appellant under compulsion.

Accordingly, the State appeal is partly allowed to the extent of back-wages. Reinstatement is upheld due to the *fiat accompli* presented but the plaintiff/respondent is held absolutely not entitled to back-wages as lie buried under the stay order of this Court. Accordingly, the stay order with respect to back wages is made absolute. The decree will stand modified as a natural consequence and remain unexecutable by the plaintiff.

(RAJIV NARAIN RAINA)
JUDGE

27.03.2017

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Whether speaking/reasoned
Whether reportable

Yes
No