

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

Date of decision: 18.01.2017

RSA No.470 of 1989 (O&M)

State of Punjab & others

...Appellants

Vs.

Joginder Singh thorough LRs

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Dr. Puneet Kaur Sekhon, Addl. AG, Punjab.

None for the respondent(s).

RAJIV NARAIN RAINA, J. (ORAL)

This is a second appeal filed by the State of Punjab against the concurrent findings of fact and the applicable law recorded by both the Courts below allowing the suit of the plaintiff-respondent against the orders of punishment imposing the penalty of forfeiting two years of service of the plaintiff-respondent.

The respondent is dead and his service estate is represented through his legal representatives. However, no one appears on behalf of the legal representatives despite service. Since it is an old appeal and preferred by the State of Punjab, I have proceeded to hear the Law Officer for Punjab for final disposal and with her help perused the record of file.

Dr. Puneet Kaur Sekhon cites Union of India Vs. Jagjit Singh, 1969 SLR 357: 1969 Law Suit (SC) 153, decided by the Constitution Bench of the Supreme Court holding that a Superintendent of Police though not designated as District Superintendent of Police can dismiss a Sub Inspector working under him. Therefore, both the Courts below gravely erred in misunderstanding the law and decreeing the suit holding the punishment

order to be bad when passed by the Additional Superintendent of Police and not by the Superintendent of Police and accordingly the judgment and decree passed by the Courts below is palpably wrong and thus deserve to be set aside.

However, since the legal position regarding Rule 16.1 of the Punjab Police Rules, 1934 stands settled by the Supreme Court holding that the expression of 'District Superintendent of Police' occurs in the Police Act, 1861 and not in the Rules, hence a 'Superintendent of Police' was competent to pass order of punishment on a Constable, Head Constable, Assistant Sub Inspector and Sub Inspector and there is no designation of Senior Superintendant of Police in the statutory rules. This designation SSP has been a later administrative development, but power and jurisdiction remain vested with the Superintendent of Police or Additional SP.

In view of the above, I find sufficient merit in the instant appeal in view of *Jagjit Singh's* case for which reason the judgments and decrees of the Courts below are unsustainable in law. The punishment order was legal and valid. Consequently, while allowing the appeal, the judgments and decrees passed by the Courts below are set aside and the suit dismissed.

However, since no one appears for the respondent (now represented through LRs), liberty is granted to them to apply for revival of the appeal in case they have a valid argument and feel aggrieved. A copy of this order be sent to the legal representatives at their given address.

18.01.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*