

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2350 of 1994

Date of Decision: 30.1.2017

Amarjit Singh

... Appellant

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Mandeep Singh Bedi, Sr. Advocate, with
Mr. Ajitpal Singh Sabharwal, Advocate,
for the appellant.

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

RAJIV NARAIN RAINA, J.(Oral)

Heard Mr. Mandeep Singh Bedi, Sr. Advocate, appearing with Mr. Ajitpal Singh Sabharwal, Advocate for the appellant and Mr. Anil Sharma, Addl.A.G., Punjab, on the employee's appeal against the judgment of the lower appellate court modifying the judgment and decree of the trial Court.

The lower appellate Court has modified the judgment and decree of the trial Court to the extent of holding that there can be forfeiture of service for increments alone. For this conclusion the Punjab Police Rules, 1934 have been examined by the court next below. It is Mr. Bedi's argument that the learned District Judge, Gurdaspur, ought not to have moulded the relief and having reached the conclusion should have remitted the matter to the competent authority in the Police Administration to re-examine the issue and pass a fresh order to that extent.

There is merit in this submission of Mr. Bedi that in regular first appeal under Section 96 of the CPC the first appellate court should not

have refashioned relief without seeking, in the first instance, the view of the Police Department before exercising powers of judicial review. Even that power could not have been exercised under Section 96 CPC which alone vests in this Court under Article 226 of the Constitution in shaping, designing, moulding and re-modulating relief in order to serve the ends of justice within the law and the prescribed rules governing the subject matter.

To this limited extent, the appeal is accepted. The judgments are set aside. It is, however, clarified that it will be open to the competent authority in the Punjab Police Department to pass a fresh order in accordance with law after affording the appellant an opportunity of hearing and taking all procedural steps as are required to decide the claim of the employee in accordance with law.

(RAJIV NARAIN RAINA)
JUDGE

30.01.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>