

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

Date of decision: 11.05.2017

RSA No.1111 of 1995

State of Punjab

...Appellants

Vs.

Ram Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rahul Verma, AAG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

The defendant-State is in appeal against the judgment and decree dated 22.11.1994 rendered by the first Appellate Court, whereby the judgment and decree dated 02.04.1992 passed by the trial Court was set aside and the suit of the plaintiff-respondent decreed.

The punishment imposed against the plaintiff-respondent was stoppage of four annual increments with cumulative effect and forfeiture of remaining pay over and above the subsistence allowance paid during the suspension period.

The office vide note dated 31.10.1996 had reported that counsel for the appellant was asked to deposit fresh process fee along with fresh address of respondent. Thereafter, counsel for the appellant was granted two weeks' time to do the needful by interim order dated 12.12.1996. However, no effort was made by the appellant-State to serve the plaintiff-respondent by making good the deposit of process fee.

On the last date of hearing, it transpired that in the instant appeal defendant-State mentioned incomplete/wrong address of the plaintiff-

respondent in the memo of parties and therefore service upon the plaintiff-respondent could not be effected. In these circumstances, this Court directed the State to effect service on the address mentioned in the lower Court record. Pursuant thereto, the report received is that the plaintiff-respondent has died. Thus, the State has failed to serve the plaintiff-respondent during his life time with substantial time available. Even thereafter, the defendant-State has taken no steps to implead or bring on record the legal representatives of the deceased plaintiff on record after his death which indicates the State has succumbed to the judgment and decree of the first Appellate Court and has filed the appeal in routine. Thus, it is not necessary to examine the quality of the judgment in appeal on merits.

Accordingly, the appeal is dismissed. If there are any dues owed by the State to the LR's of the plaintiff, coming from his service benefits, they shall be determined and paid to them and for this there will be no period of limitation for them to approach the Court by an application for revival of the appeal.

A copy of this order will be sent by the office to the address of the plaintiff (deceased) mentioned in the lower Appellate Court judgment so that the same becomes known to the LR's of the plaintiff or those who may be interested in the lis. A copy of this order be also sent to the Tehsildar and Sarpanch of the native village concerned for service on the members of the family. In case, the plaintiff was a pensioner, then the State will also be responsible for searching out the LR's and bring this order to their notice.

11.05.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned : *Yes*
Whether Reportable : *No*