

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

RSA-1454-1996 (O&M)
Date of Decision : 01.11.2017

Dhanpat Singh

..... Appellant

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Puneet Jain, Advocate
for Mr. Rakesh Gupta, Advocate
for the appellant.

Mr. Anil Mehta, D.A.G., Haryana.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower appellate court reversing that of the trial court and thereby dismissed the suit of the appellant.

The appellant was charge-sheeted for being absented from 20.09.1985 to 29.10.1985. He having been hospitalized had submitted certificates as per which he was medically unable to join the duty from

that firstly the appellant did not apply for leave and secondly out of 40 days that he remained absent, for a period of 5 days there was no medical certificate to prove that why he could not join the duty. After holding the inquiry, the punishment of stoppage of three increments with cumulative effect was imposed upon him.

Counsel for the appellant has argued that though there are many other procedural defects in the inquiry yet what has come on the record is that the appellant fell sick and hospitalized for 35 days and he joined back within 2 days of discharge from the hospital and in these circumstances the fact that he could not get his leave sanctioned should have been excused and the punishment of stoppage of three increments with cumulative effect is clearly illegal. He has further argued that the finding of the lower appellate court that the period of notice does not have to be excluded while computing limitation is also illegal.

Learned Deputy Advocate General has accepted that the finding on limitation is wrong but as regards the first argument of the counsel for the appellant, he has sought to justify the punishment.

To my mind, the punishment is grossly disproportionate. The appellant was seriously sick and had been admitted to a Government Hospital for a period of 35 days. In the circumstances, the non sanctioning of leave and the fact that out of 40 days there was no medical certificate for 5 days were not such serious offences so as to justify the major punishment of stoppage of three increments with cumulative effect. The parameter for judicial interference in matters of punishment was laid down in case of

Union of India and another vs. S.S. Ahluwalia, 2007(7) SCC 257, wherein

it has been held as follows :-

“.... The scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceedings, is very limited. The Court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved. In such a case, the Court is to remit the matter to the disciplinary authority for reconsideration of the punishment. In an appropriate case, in order to avoid delay the court can itself impose lesser penalty.....”

Keeping in view the nature of allegations, I am convinced that the punishment imposed is disproportionate to the charges levelled against the appellant. Resultantly, the appeal is disposed of. The punishment is reduced to stoppage of one increment without cumulative effect and the judgment of the trial court is modified accordingly and that of the lower appellant court is set aside. It is stated that the appellant has now retired. In the circumstances, the respondents are now directed to workout the benefit of setting aside of the punishment order and release the same to the appellant within a period of 4 months from the date of receipt of a certified copy of this order, failing which, he would be entitled to claim the same with interest @ 8% p.a. from the date/s the amount/s fell due till the date/s of payment.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

November 01, 2017
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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No