

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

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**CM-9495-C-2017 in/and
RSA-1258-1998 (O&M)
Date of Decision : 14.11.2017**

State of Punjab and others Appellants

Versus

Ganda Singh Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. H.S. Sitta, A.A.G., Punjab
for the appellants.

Mr. G.L. Bajaj, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

CM-9495-C-2017

This is an application for fixing the main case for some actual date of hearing.

For the reasons recorded, the application is allowed. On the request of the counsel, the case is taken up for hearing today itself.

RSA-1258-1998 (O&M)

This appeal has been filed against the judgment of the lower Appellate Court reversing that of the trial Court and thereby decreeing the suit of the appellant.

Brief facts of the case are that the appellant who is a police officer was sent for Guard Duty on 05.08.1990 at 9.30 AM. to a Bank 8 kms. away. He however did not reach the spot and there was a robbery in the bank at 10.30 AM. On this ground he was charge-sheeted. Though the

charge was very serious he was ultimately imposed the punishment of forfeiture of two years service 'with permanent effect'. His appeal having been dismissed he filed the instant suit. The trial court dismissed the suit and he filed an appeal. The lower appellate court held that in Rule 16.2 there was no punishment with the nomenclature 'forfeiture of service with permanent effect' and consequently set aside the order of punishment. It may be mentioned there that the finding of the inquiry officer regarding the guilt of the respondent which was upheld by the trial court was not reversed by the appellant court. The State is in appeal before this Court.

Learned Assistant Advocate General states that the courts below firstly erred in proceeding as if the punishment order was based on Rule 16.2 whereas the same was based on Rule 16.1. Counsel for the appellant has accepted this fact. Columns 1 and 2 of Item Nos.1 to 3 of the table annexed to Rule 16.1 are relevant and are quoted herein below:-

1	Dismissal
2	Reduction
3	Stoppage of increment or forfeiture of approved service for increment

It is the contention of the learned Assistant Advocate General that stoppage of increment or forfeiture of approved service for increment are the same punishment and it is just that item No.3 has explained various expressions used to convey the same. He has further argued that the concept of forfeiture of service was gone into by Supreme Court in **Chamba Singh vs. State of Punjab (1997) 11 SCC 452** where it was clarified that forfeiture of service for increment would mean the same thing

as stoppage of increment. He has therefore argued that the appellate court erred in setting aside the punishment order.

Counsel for the respondent is not in a position to counter this argument.

In the circumstances, it is held that the judgment of the lower appellate court whereby the punishment has been set aside while the finding of guilt has not been set aside cannot be sustained and it has to be held that the expression used in the punishment order forfeiture of 2 years service 'with permanent effect' would mean forfeiture of 2 years service for increment.

The appeal is allowed in the above terms.

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

November 14, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No