

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

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RSA-902-2009

Decided on : 12.9.2017

STATE OF HARYANA AND ANOTHER

....APPELLANTS

VS

SAROJ BALA AND ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Anil Mehta, DAG, Haryana.

Mr. Mukesh Rao, Advocate
for the respondents.

AJAY TEWARI, J.(Oral)

This appeal has been filed against the concurrent judgments of the Courts below whereby the suit of the plaintiff (since deceased) was decreed.

Brief facts of the case are that Jumma Ram-husband of respondent No.1 was appointed and joined as a Bearer in the Pandit Bhagwat Dayal Sharma PGIMS, Rohtak-appellant No.2 on 3.12.1974. Between 10.08.1993 and 7.2.1994 that is over a period of about 6 months he was on unauthorized leave for 57 days and chargesheet dated 25.4.1994 was issued to him. After regular enquiry it was established that he had indeed taken that leave without permission and the punishing authority after observing the requirements of law terminated his services. His statutory appeal having been dismissed he filed the instant suit.

Both the Courts below held that while terminating his services

those 57 days were treated as a leave of the kind due and then went on hold that once that was so the appellants had themselves withdrawn the charge of unauthorized leave and consequently, decreed the suit.

Learned Deputy Advocate General has argued that the purpose of accounting for the unauthorized absence was to work out the other terminal benefits which were available to the said Jumma Ram so that the same could be paid to him and consequently, the Courts below erred in holding that the entire case has been displaced only because of this clerical exercise.

Counsel for the respondents has argued that even if this assertion is accepted the fact remains that Jumma Ram had been very unfairly treated since at the time when his services were terminated his long 22 years of previous service has not been taken into account. Counsel for the respondent has relied upon the judgment of the Supreme Court in the matter of “State of Punjab and others vs. Bakshish Singh (1998) 8 SCC 222”. I find some weight in the argument of counsel for the respondents.

In the circumstances, one option before this Court is to set aside the order of the Punishing authority and remand the case back for a fresh decision after considering the period of service of Jumma Ram for the entitlement of pension. However, this Court cannot lost sight of the fact that the services were terminated almost a quarter century ago i.e. in the year 1994. I have been informed that Jumma Ram has since died and as a result of the termination even none of his dependents could take the benefit of the then extant policy of compassionate appointment, and as a result, his legal representatives are facing extreme penury.

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.....”

In view of these extreme circumstances, this appeal is dismissed and the termination order of the services of Jumma Ram is set aside. However, the punishment imposed upon Jumma Ram is reduced to compulsory retirement and the appellants are directed to now work out his retiral benefits and release to the respondent No.1-wife within 4 months from the date of receipt of certified copy of this order, failing which, she would be entitled to claim the same with interest @ 8% per annum with effect from 5.12.1994 till the date of payment.

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

12.9.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No