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

RSA-1366-2011 (O&M)

Date of Decision : 08.12.2017

The State of Punjab and another

..... Appellants

Versus

Pritam Singh

.....Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. H.S. Sitta, A.A.G., Punjab.

Mr. Aman Dhir, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the judgment of the courts below whereby the suit of the respondent was decreed.

The respondent who was a Conductor was charge-sheeted for having embezzled certain money in so much as he had taken Rs.3/-each from four passengers but had not issued them ticket. Regular inquiry was initiated against him. The inquiry officer found him innocent and forwarded the report to the disciplinary authority. The disciplinary authority however gave a dissenting note and after following due procedure imposed upon the respondent a penalty of reduction of pay by one increment. The respondent

mandatory injunction seeking direction to the appellants to restore the pay. The trial court held that the order was illegal in so much as no such punishment was prescribed under the rules but refused the mandatory injunction.

The effect of the judgment of the trial court was that no benefit was granted to the respondent and no prejudice was caused to the appellants. In those circumstances, the respondent filed an appeal but the appellants did not challenge the judgment of the trial court. The appeal was allowed and the lower appellate court held that once the trial court had issued a declaration that the impugned punishment order was illegal the mandatory injunction had to be granted. It is in these circumstances that the State is before me in appeal.

At the very outset, counsel for the respondent has argued that the appellants can only challenge the mandatory injunction but not challenge the declaratory decree because no appeal was filed by them against that declaration. In my opinion, this argument cannot be accepted. As shown above, the judgment and decree of the trial court granted no actual benefit to the respondent and did not work any prejudice to the appellants and that is why the appellants were not required to file an appeal against it. Consequently, this argument of the counsel for the respondent is rejected.

Learned Assistant Advocate General has argued that the only fault with the entire process was that the punishment order was not happily worded and in fact what the disciplinary authority wanted to say was that the respondent would be deprived of one increment with cumulative effect.

effect thereof. I find myself in agreement with the learned Assistant Advocate General.

Consequently, the appeal is allowed and the suit of the respondent stands dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

December 08, 2017
poojasharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No