

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

RSA No. 3411 of 2015 (O&M)
Date of decision : November 07, 2017

The Punjab State and others

..... Appellants

v.

Jagtar Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. HS Sitta, AAG Punjab
for the appellants.

Mr. RS Bajaj, Advocate
for the respondent.

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 decreeing the suit of the respondent.

In the suit, the respondent had challenged his dismissal order.

One of the grounds taken by the respondent was that in fact during the inquiry proceedings he was actually not given any opportunity to present his case and his signatures had been obtained on many blank pages. The trial Court had dismissed the suit holding that the inquiry proceedings were valid. The lower appellate Court, however, while relying upon various circumstances, came to the conclusion that the inquiry proceedings were vitiated. It found that even though the signatures of the respondent had appeared on various orders yet none of the orders had pronounced any date

and, therefore, was struck as to how the respondent would have appeared before the Inquiry Officer when no date had been informed to him. The lower appellate Court also noticed that in an order dated 13.4.2005, it was mentioned that the statement of a prosecution witness had been taken on record but that statement was dated 19.4.2005. In the circumstances, the lower appellate Court held that the inquiry was vitiated.

Learned AAG Punjab has argued that the lower appellate Court erred in setting aside the dismissal order but he has not been able to dispel the factual aspects. Resultantly, the finding of the lower appellate Court with regard to the invalidity of the inquiry proceedings has to be upheld. Ordered accordingly.

Learned AAG Punjab has, however, pointed out that even if the inquiry proceedings have been vitiated and the lower appellate Court has rightly remitted the matter back for fresh inquiry, the relief of reinstatement with full back wages was illegal. Counsel for the respondent has, on the other hand, argued that once the inquiry has to be conducted again, it should be left to the disciplinary authority to decide about the manner in which the intervening period has to be treated but at-least from today the respondent should be treated under suspension. Learned AAG Punjab is not in a position to counter this argument.

In the circumstances, this appeal is disposed of with a direction that the inquiry be conducted again from the stage of receipt of reply to the charge-sheet, and be concluded as per law. With effect from today, the respondent would be entitled to subsistence allowance and ultimately the disciplinary authority will take a decision with regard to the manner in which the intervening period has to be treated.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

November 07, 2017
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(AJAY TEWARI)
JUDGE

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