

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215

RSA-6632-2016
Decided on : 28.9.2017

KULDEEP SINGH

....APPELLANT

VS

STATE OF HARYANA & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Rakesh Nagpal , Advocate
for the appellant.

Mr. Anil Mehta,DAG, Haryana.

AJAY TEWARI, J.(Oral)

This appeal has been filed against the judgment/order of the Lower Appellate Court below reversing that of the trial Court thereby allowing the appeal of the respondents and dismissing the suit filed by the appellant whereby he had challenged the punishment order.

On the last date the following order was passed:

“Counsel for the appellant has argued that the appellate order passed by the IG is completely non-speaking and this fact has been ignored by the lower appellate Court.

Notice of motion.

On the asking of the Court, Mr. Sushil Gautam, DAG Haryana accepts notice. Counsel for the appellant undertakes to hand him over a copy of the paper book during the course of the day.

Adjourned to 28.9.2017.”

Today learned Deputy Advocate General has very fairly accepted that the order of the Appellate authority was a non-speaking order. One option before me is to admit the appeal. I find that this controversy arose more than five years ago. Counsel for the appellant has argued that though the judgment of the Appellate Court is wrong yet even the trial Court had exceeded its jurisdiction and in law the proper action would have been to set aside the appellate order and remand the matter back to the Appellate authority to pass a fresh order in accordance with law. Learned DAG has also accepted that this would be a proper course of action.

In the circumstances, I do not deem it a fit case where the appeal should be admitted to decide in due course. Consequently, the judgments of the Courts below are set aside and the order of appellate authority dated 5.7.2012 is also set aside and the matter is remanded back to the Appellate authority to decide the service appeal filed by the appellant by passing a fresh speaking order in accordance with law.

28.9.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No