

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

RSA-2676-2014
Decided on : 11.10.2017

Gainda Ram, Ex-Constable

...Appellant

VS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ivneet Singh Pabla , Advocate
for the appellant.

Mr. Anil Mehta, DAG, Haryana.

AJAY TEWARI, J.(Oral)

By this appeal the appellant has challenged the concurrent judgments of the Courts below dismissing the suit filed by the appellant. On 10.9.2015 the following order was passed :-

“Learned counsel for the appellant contends that the concurrent findings of two Courts below are against the appellant. He has been dismissed from service. The only relief pressed before this Court is that the appellant has 22 years of service and his pensionary rights may be protected.

Notice of motion for 28.1.2016 to the State of Haryana on this point only.”

Learned counsel has argued that at the time when the punishment was imposed upon him it was incumbent upon the respondents to have considered the length of service of the appellant to determine whether it

may have been appropriate to retire him instead of dismissing him. In this connection he has relied upon the decisions of this Court in the matter of “Virender Singh vs. State of Haryana and others 2014 (1) SCT 561”, “Dhan Singh vs. State of Haryana, 2008 (3) SCT 816” and “State of Punjab and others vs. Pehla Singh, Ex. ASI 2012 (3) PLR 13”

In these judgments it has been held that in such a case it would be incumbent upon the employer to have considered the entitlement of the employee for pension at the time of imposition of the punishment of removal from service/dismissal. Learned DAG is not in a position to contradict these judgments.

In the circumstances, this appeal is allowed and the judgments and decrees of the lower Courts are set aside. Order of dismissal is also set aside and the punishing authority is directed to reconsider the issue of punishment after considering the length of service of the petitioner. Counsel for the appellants has argued that in this case the appellant is now almost 70 years of age and has been subsisting without any retiral benefits for the past about 10 years.

In the circumstances, it is directed that afresh reasoned order now be passed after hearing the appellant within a period of 3 months from the date of receipt of certified copy of this order. It is made clear that in case no order is passed within this period and that delay is not due to the appellant, the appellant would be entitled to recurring cost of Rs. 10,000/- per month till such time order is passed.

Since the main case has been decided, the pending civil

miscellaneous application, if any, also stands disposed of.

11.10.2017
anuradha

(AJAY TEWARI)
JUDGE

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