

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM-6341-C-2017 in/and
RSA No. 2581 of 2017(O&M)
Date of Decision: 11.05.2017**

State of Punjab and others

...Appellants

Vs.

Jagtar Singh

...Respondent

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. B.M. Vinayak, DAG, Punjab.

RAJIV NARAIN RAINA, J. (Oral)

Mr. B.M. Vinayak, DAG, Punjab could have produced in the first instance at the hearing a copy of the judgment of the trial Court in the criminal case involving the respondent in FIR No.21 dated 17.03.2009 under Section 15 of the NDPS Act registered at Police Station, Lambi to know the nature of the acquittal. If in the trial of case FIR No.21 dated 17.03.2009, the plaintiff was acquitted of the charges honourably then on the same set of allegations he ought not to be punished with stoppage of three increments with cumulative effect by way of a departmental proceeding.

That is not even a ground taken in the appeal that the acquittal was not clean. The result of punishment order for major misconduct cannot be achieved even after a full-fledged regular inquiry. The inquiry may be procedurally in order but it is substantively wrong by reason of acquittal beforehand by the trial Court on the same charge that constituted the domestic charge-sheet.

Both the Courts are concurrent in their opinions that the punishment orders deserve to be set aside as illegal. So, I have no reason to disagree with the findings recorded by the Courts below which are concurrent on the issues with law on the subject matter kept in mind. Howsoever grave the suspicion is it cannot take the place of proof. The appeal should fail as it has no legs to stand on.

The appeal deserves to be dismissed also by reason of delay and unexplained laches in filing the same beyond 203 days of the period prescribed for filing regular second appeals. Sufficient cause has not been shown in the application/affidavit under Section 5 of the Limitation Act for condoning the delay caused by office red tape and procedural rigmarole that the State takes as stock and pardonable reasons. No question of law much less substantial arises for consideration on the second appeal side of this Court.

Accordingly, the appeal is found without substance and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

11.05.2017
neeraj

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>