

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6272 of 2016 (O/M)
Date of decision : 10.1.2018

The State of Punjab and others Petitioners

Versus

Ex. Ct. Harbhajan Singh Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. G.S. Dhillon, DAG Punjab, for petitioners-State.

Mr. Puneet Sharma, Advocate, for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Impugned in present revision is the order dated 11.5.2016, passed by the learned Additional Civil Judge (Senior Division), Patiala, whereby in the execution proceedings, the JDs i.e. present petitioners, were directed to reinstate the plaintiff-decree holder in service immediately and then conduct inquiry and pass orders in accordance with law.

I have heard the learned State counsel, the learned counsel for respondent and have also carefully gone through the file.

It comes out that plaintiff-respondent was working as a Constable in the Punjab Police since 10.2.2005. He was dismissed from service, vide order dated 3.12.2005. He filed a civil suit challenging his dismissal from service. The learned Civil Judge (Junior Division), Patiala, partly decreed the suit and ordered the defendants (present petitioners) to consider the case of plaintiff-respondent for pensionary benefits by treating his dismissal order as compulsory retirement. Against the said judgment,

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both the parties went in cross appeal. The learned Additional District Judge, Patiala, while disposing of the cross appeals on 30.11.2015 (Annexure-P-2), observed that while passing the dismissal order dated 30.11.2015, natural justice, fair play and good conscience has not been followed and no opportunity of being heard has been afforded to respondent-plaintiff. Consequently, the appeal filed by plaintiff-respondent was allowed. The defendant-State was directed to pass fresh orders on merits as to whether respondent-plaintiff was required to be dismissed from service, after conducting fresh inquiry and after giving an opportunity of being heard and after considering the evidence, if any, produced by respondent-plaintiff before the inquiry officer. Plaintiff-respondent filed an execution application, wherein he claimed that he should be reinstated in service before conducting inquiry.

The learned State counsel has argued that the Executing Court could not go beyond the decree.

I am of the view that the dismissal order has been set aside by the lower appellate Court, which means that status of respondent-plaintiff as Constable has been restored. The police could conduct inquiry under Section 16.24 of the Punjab Police Act, 1934, only if the employee is in their service. The judgment of the lower appellate Court means that plaintiff would continue to be in service until an inquiry is conducted and appropriate order is passed. Therefore, ordering the JDs-State to first reinstate the respondent-plaintiff in service cannot be called beyond the scope of the decree passed by the lower appellate Court. As such, findings recorded by the learned Civil Judge (Junior Division), Patiala, are affirmed. The State is directed to immediately reinstate the plaintiff in service and

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then conduct departmental inquiry, as directed by the lower appellate Court,
expeditiously and pass necessary orders.

Revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

10.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No