

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1882-1999 (O&M)

Date of Decision:-18.04.2018.

Rulda Ram

.....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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Present: Mr. Navneet Jindal, Advocate for the appellant.

Mr. G.S. Wasu, Additional A.G. Haryana.

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**P.B. BAJANTHRI, J. (Oral)**

1.) In the present appeal, appellant has questioned the validity of the judgments passed by the Trial as well as Appellate Court dated 2.4.1997 and 13.8.1997, respectively.

2.) Appellant while working as a Cook, he had applied for leave and it was sanctioned. Thereafter, he remained absent as and when leave period was expired. For the period from 01.03.1993 to 15.03.1993 appellant had requested for extension of leave and it was rejected on 16.03.1993 after the expiry of leave period. Respondents have resorted to disciplinary proceedings and it was concluded in imposing the penalty of dismissal from service on 8.2.1994. Feeling aggrieved by the order of dismissal, appellant is stated to have presented departmental Memorandum of Appeal on 15.2.1994. Due to inaction of the Appellate authority, appellant was compelled to file suit before the Trial Court and it was filed on 2.3.1995.

Suit was dismissed on 2.4.1997. Further appellant's appeal was dismissed

on 13.8.1997. Hence, the present appeal.

3.) Undisputed facts are that departmental Memorandum of Appeal is still pending consideration or during pendency of this litigation, appellate authority may have passed order without any notice to the appellant. Further if appellate authority had passed the order and it has not been communicated meaning thereby, appellant's right of appeal and challenge to that order is still existing. In view of these facts and circumstances, respondents are permitted to pass a speaking order after due consideration on the appellant's plea in the Memorandum of Appeal dated 15.2.1994. Appellate authority is directed to pass a speaking order on appellant's appeal within a period of 3 months from today and communicate at the earliest since appellant is out of service from 8.2.1994. As statutory right of appellant is still existing, therefore, judgments passed by the Trial as well as Appellate Court dated 2.4.1997 and 13.8.1997, respectively are set aside.

4.) Appeal stands allowed.

5.) While deciding the appeal of the appellant, appellate authority need not to influence by the judgments of Trial and Appellate Court as the same have been set aside. If the appellant's appeal is rejected in that event appellant is permitted to challenge the appellate authority's order before the appropriate forum.

**(P.B. BAJANTHRI)**  
**JUDGE**

**April 18, 2018.**  
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.