

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-656-2015 (O&M)

Date of Decision: 23.04.2018

State of Punjab and others

... Appellants

Vs.

Sukhdarshan Singh

... Respondent

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

Present : Mr. RBS Chahal, Addl. A.G. Punjab.

Ms. Harpriya Kaneka, Advocate
for the respondent.

P.B. BAJANTHRI J. (Oral)

In the instant appeal, appellants have questioned the validity of the trial as well as appellate courts judgments dated 22.1.2013 and 21.7.2014.

2. Respondent-Sukhdarshan Singh while working with the appellants was involved in a criminal proceedings and he was convicted on 17.09.1986 for the offences under Section 324 and 506 IPC. Based on the conviction, services of the respondent were terminated on 13.03.2003. In the criminal appeal, while holding the conviction is in order, sentence was modified. Based on the modification of the sentence, appellants have proceeded to pass orders on the appeal of the respondent against the termination order dated 13.03.2003 as well as the orders dated 29.01.2009/17.02.2009. While setting aside the order of termination on 29.01.2009/17.02.2009, it was ordered that respondent is not entitled to any monetary benefits for the intervening period while invoking Rule 7.3 of the Punjab Civil Services Rules Part-I Vol-I. Respondent feeling aggrieved by the portion of the order dated 29.01.2009/17.02.2009 insofar as denial of

monetary benefits filed a suit before the trial Court. Suit was decreed in favour of the respondent. Appellants preferred an appeal before the appellate court and it was decided against the appellant on 21.7.2014. Hence, the present appeal.

3. Learned counsel for the appellants submitted that trial Court has not appreciated Rule 7.3 of the Punjab Civil Service Rules read with factual aspect to the extent that respondent was not acquitted in the criminal appeal. What has been ordered in the criminal appeal is only modification of the sentence. In other words, conviction was upheld. In view of these factual aspect read with the mandatory statutory provision under Rule 7.3 of the Punjab Civil Services, both the courts i.e. trial as well as appellate courts have erred in not appreciated and apprising factual aspects read with Rule 7.3 of the Punjab Civil Services.

4. Per contra, learned counsel for the respondent submitted that in view of the order passed in the criminal appeal read with the order to the extent that modification of sentence as well as setting aside the order of termination by the appellate authority, respondent-workman is entitled to monetary benefits during the intervening period from the date of termination till reinstatement. Thus, trial court has rightly decreed the suit with reference to the order of termination read with appellate authority order. Therefore, denial of monetary benefits during the intervening period would be unfair.

5. Heard the learned counsel for the parties.

6. Question for consideration in the present appeal is whether respondent is entitled to any monetary benefits during the intervening period from 31.3.2003 to 17.2.2009 or not?

Undisputedly, respondent was involved in a criminal proceedings in which he was convicted. Based on the conviction order, appellants proceeded to terminate the services of the respondent on 13.03.2003. Pursuant to the criminal appeal decision, appellate authority has taken a lenient view in setting aside the order of termination while denying the monetary benefits. Question of extending monetary benefits during the intervening period from the date of termination till setting aside the order of termination would arise as and when employee is exonerated or acquitted in a criminal case. In the present case, only sentence has been modified, therefore, respondent is not entitled to monetary benefits under Rule 7.3 of the Punjab Civil Services Rules. Moreover Rule 7.3 empowers the competent authority to pass appropriate order. Rightly the appellate authority held that respondent is not entitled to monetary benefits during the intervening period from the date of termination till reinstatement with reference to the fact that there is a conviction and what has been ordered in the criminal appeal is modification of sentence. That does not enure the monetary benefit for the respondent. In fact appellate authority has taken a lenient view in ordering reinstatement while setting aside order of termination. In view of these facts and circumstances read with Rule 7.3 of the Punjab Civil Services Rules, trial as well as appellate court have erred in not appreciating two things namely respondent was not acquitted in the criminal case so also Rule 7.3 empowers the competent authority to pass appropriate order.

8. Accordingly, appellants have made out a case to interfere with the judgments passed by the courts below and judgments of the courts below are set aside. Appeal stands allowed.

9. At this stage, learned counsel for the respondent relied on para-7 of a decision of this Court passed in *O.P. Sindhwani v. State of Haryana and another*; 2009 (4) SCT 62 to contend that once the order of termination is set aside, concerned employee is entitled to all monetary benefits. Reading of para-7, it is evident that in the said case appellant was exonerated by the competent authority and ordering recovery has been stalled. Whereas in the present appeal respondent was not subjected to disciplinary proceedings so as to contend he had been exonerated. On the other hand, respondent's services were terminated on the basis of the conviction order. Even to this day, conviction holds good and only sentence is modified. Therefore, cited decision do not assist the respondent's case. Therefore, aforesaid contention is hereby rejected.

23.04.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No