

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-6250-2014 (O&M)

Date of Decision:-17.01.2018.

Maninder Kaur

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Mohit Garg, Advocate for the appellant.

Mr. Pawan Sharda, Senior DAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant appeal, appellant has questioned the validity of the Appellate Court order dated 10.09.2014.

Appellant was appointed as a Lecturer in English on 18.08.1994. Her services were terminated and again on 6.12.1999 she was appointed as such. Consequently, appellant was reinstated and taken back to duty. Once again her services were terminated on 25.03.2006. Feeling aggrieved by the order of termination, suit was filed before the trial Court. Suit was decreed in favour of the appellant. Respondent feeling aggrieved by the trial Court order dated 30.01.2014, preferred an appeal before the Appellate Court. Appellate Court modified the order of the trial Court to the extent that appellant is not entitled to reinstatement insofar as holding of inquiry as ordered by the trial Court has been upheld. Thus, the present appeal insofar as denial of reinstatement by the Appellate Court.

During pendency of the present appeal, respondents have complied the directions of the Appellate Court insofar as holding inquiry

and so also it has attained finality in terminating services of the appellant on 18.01.2017. In view of these facts and circumstances, question for consideration is whether appellant is entitled to reinstatement pursuant to the trial Court order or not and consequential benefits during the intervening period from 30.01.2014 till 18.01.2017, the date on which appellant's services were terminated once again. Once the order of termination is set aside, consequently benefit of reinstatement would flow. No doubt trial Court set aside the order of termination on technical ground to the extent of not holding inquiry. Therefore, appellant is deemed to be under suspension and she is entitled to subsistence allowance. The said principle has been laid down by the Hon'ble Supreme Court in the case of **Managing Director, ECIL, Hyderabad Vs. B. Karunakar 1993 (4) SCC 727.** Therefore, Appellate Court order dated 10.09.2014 is modified to the extent that appellant is not entitled to reinstatement to that of appellant is deemed to be under suspension from the date of trial Court order i.e. 30.01.2014 till passing of fresh termination order i.e. till 18.01.2017. Respondents are hereby directed to calculate subsistence allowance from 30.01.2014 to 18.01.2017 and disburse the same to the appellant within a period of 6 months from today.

Appeal stands disposed of. However, this order would not come in the way of challenging fresh order of termination dated 18.01.2017.

(P.B. BAJANTHRI)
JUDGE

January 17, 2018.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes / No

Yes / No.