

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

127

Regular Second Appeal No.47 of 2019 (O&M)

Date of Decision: January 10th, 2019

Union of India and others

...Appellants

Versus

Jasbir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Shivoy Dhir, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.134-C of 2019

Prayer in this application is for condoning the delay of 63 days
in filing the appeal.

For the reasons mentioned in the application, which is duly
supported by the affidavit of the Commandant, CISF Unit, SSTPS
Shaktinagar, Sonbhadra District, the present application is allowed.

Delay of 63 days in filing the appeal stands condoned.

CM No.133-C of 2019

Prayer in this application is for exemption from filing true
typed copy of plaint, written statement, replication, the judgment and decree
of learned trial Court, grounds of appeal and true typed copy of the
impugned judgment and decree of learned First Appellate Court.

Application is allowed subject to just exceptions.

Exemption, as prayed for, is granted.

RSA No.47 of 2019

Challenge in this appeal is to the judgment and decree
dated 24.08.2015 passed by the Civil Judge (Junior Division), Batala, which
has been upheld by the Additional District Judge, Gurdaspur, vide judgment

dated 26.07.2018.

2. It is the contention of learned counsel for the appellants that the respondent-plaintiff is not entitled to the declaration, as has been granted by the Courts below, in the light of the fact that the learned Additional District Judge, Gurdaspur, vide judgment dated 04.02.2011 had although set aside the earlier order of dismissal from service as well as the order of the Appellate Authority and the Revisional Authority but had granted liberty to the department to start a *de novo* inquiry against the respondent-plaintiff. Respondent was called upon to appear before the Inquiry Officer by the Appellate Authority but he failed to do so and thereafter the Inquiry Officer proceeded to pass the orders of removal from service, which could not have been, therefore, set aside by the Courts below in the light of the fact that the respondent-plaintiff did not participate in the second inquiry proceedings and thus, the impugned judgments and decree deserve to be set aside.

3. I have considered the submissions made by learned counsel for the appellants and with his assistance, have gone through the judgments passed by the Courts below.

4. It is an admitted position that after the passing of the judgment dated 04.02.2011 by the learned Additional District Judge, Gurdaspur, whereby liberty was granted to the appellants to hold a *de novo* inquiry against the respondent-plaintiff, no fresh charge-sheet has been issued to the respondent-plaintiff. In the light of this admitted fact and keeping in view the judgment passed by the Hon'ble Supreme Court in *Chairman-cum-M.D., Coal India Limited and others Versus Ananta Saha and others 2011 (2) Apex Court Judgment 507*, wherein it has been held that when the Court

gives liberty to hold a *de novo* inquiry, the effect thereof is that the earlier proceedings including the charge-sheet issued stood quashed and fresh charge-sheet is required to be issued to the delinquent employee. It has been earlier settled by this Court in *M.R. Sharma Versus The Chief Manager, Central Bank of India and others 2004 (4) SCT 176* also on the same lines.

5. In view of the above settled proposition of law, the judgments and decree passed by the Courts below which have been impugned in the present appeal, being based upon proper appreciation of the facts, evidence and law, do not call for any interference by this Court.

6. The appeal being devoid of merit, therefore, stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.135-C of 2019 stands disposed of as infructuous.

January 10th, 2019
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No