

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

**Civil Revision No.5566 of 2016  
Date of Decision : 10.04.2019**

Yash Pal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present : Mr. Rajinder Sharma, Advocate  
for the petitioner.

Ms. Rukhsar Dhindsa, Asstt. Advocate General, Punjab  
for the respondents.

**SUDIP AHLUWALIA, J. (ORAL)**

This Revision Petition is directed against the impugned order dated 24<sup>th</sup> May, 2016, passed by the Ld. Civil Judge (Junior Division), Amritsar, vide which the Execution Application filed by the Petitioner for execution of the earlier Decree passed in his favour by the Court on 13<sup>th</sup> September, 2000, was dismissed.

2. The Petitioner had challenged his dismissal from service by way of Civil Suit No.898 dated 25<sup>th</sup> April, 1995 in the Ld. Court below, and it was directed in the said Judgment and Decree that the Order of termination dated 19<sup>th</sup> March, 1992 passed by Defendant No.2-Senior Superintendent of Police, Amritsar and a subsequent order passed by

Defendant No.3-Deputy Inspector General of Police, Border Range, Amritsar dated 9<sup>th</sup> August, 1993 are illegal, null and void, and not binding upon the Petitioner/Plaintiff, who was therefore entitled to all the benefits including pay and allowances with effect from the date of his termination. The said Judgment was challenged on behalf of the Defendants representing the State of Punjab by way of Civil Appeal No.350 of 2000, which was disposed off by the Ld. Additional District Judge, Amritsar vide his Judgment and Decree dated 2<sup>nd</sup> May, 2003. The Appeal of the Defendants was dismissed and Decree of the Trial Court was upheld. The Appellants/Defendants were however granted liberty to pass a fresh order after following the proper procedure as laid down under Rule 16.24 of the concerned Service Rules (Punjab Police Service Rules), if they so desired.

3. Consequently, the Defendants/Judgment Debtors passed a fresh Order on 19<sup>th</sup> March, 2006 ostensibly from the liberty granted to them by the Ld. Appellate Court. Thus, the dismissal of the Petitioner from service was set aside and he was ordered to be reinstated, but his entitlement for the period of his absence was left to the decision of the Departmental Inquiry.

4. The concerned Departmental Inquiry was completed by the Senior Superintendent of Police, Amritsar on 19<sup>th</sup> March, 2007 vide Annexure P-4, and consequently, punishment was imposed upon the

Petitioner by way of forfeiture of one year's service with cumulative effect, apart from treating the period of his absence of 10 months and 17 days as being without duty period.

5. But for the needless enthusiasm on the part of the Petitioner/Decree Holder to challenge the punishment imposed upon him, the matter would have otherwise gone on smoothly. He could have accepted the aforesaid punishment and pressed for recovery of his dues after modified calculation on account of the forfeiture of one increment, one year service and treating the period of his absence as without duty period. He nevertheless challenged the punishment order by filing a separate Suit which was dismissed, and the Appeal preferred by him against such dismissal was also dismissed.

6. He, thereafter, became wiser, and then sought execution of the original Decree in which he claims to have conceded to the forfeiture of one year service with cumulative effect, as also the emoluments by way of pay and allowances for the period of his absence running into 10 months and 17 days. It was, however, dismissed by the Ld. Court below because of the fact that the Petitioner's second Suit challenging the Punishment Order had itself been dismissed.

7. In the opinion of this Court, dismissal of the second Suit does not *ipso facto* render the previous Decree passed in his favour as

null and void. The fact of the matter is that the Petitioner tried to take a chance in seeking to challenge the Punishment Order passed against him after completion of the Departmental Inquiry conducted by the Respondents/Judgment Debtors in view of the liberty granted to them by the Ld. Appellate Court in the earlier proceeding. The Petitioner failed in his attempt to set aside the Punishment Order. But that certainly was not reason enough to deny him his other admissible dues after deducting the amounts to which he would have been found not entitled on account of the Punishment Order. A complete rejection of his Execution Application, in the given circumstances *qua* a Decree which was still operative in his favour, and for which Execution by way of modified calculation purportedly after deducting the amounts to which he was rendered ineligible on account of the subsequent Punishment Order, was certainly an error on the part of the Ld. Court below, considering that in any case, the Execution Application was still filed within time.

8. For the aforesaid reasons, the present Revision Petition is allowed after setting aside the impugned orders.

9. Ld. Executing Court is directed to pass a fresh order regarding the actual entitlement of the Petitioner/Decree Holder in view of the Decree standing in his favour arising out of the original Civil Suit No.898 dated 25<sup>th</sup> April, 1995 duly affirmed by the decision of the

Ld. Appellate Court dated 2<sup>nd</sup> May, 2003, after excluding the amount not admissible to him in view of the Punishment Order passed against him in the Departmental Proceedings.

**April 10, 2019**  
**Dpr**

**(SUDIP AHLUWALIA)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No