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

**RSA No.4269 of 2019 (O&M)
Date of Decision: 31.10.2019**

**Miami Cooperative Agriculture Service Society
.....Appellant**

Vs

**Harpal Singh and others
....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rajesh Gupta, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. This Regular Second Appeal has been preferred against the judgment and decree dated 23.05.2019 passed by the Addl. District Judge, Ludhiana, vide which the judgment and decree dated 06.01.2017 passed by the Civil Judge (Junior Division) Ludhiana was set aside.

[2]. Brief facts are that the plaintiff Harpal Singh filed a suit for declaration to the effect that the order of suspension dated 27.08.2004 passed by defendant No.3 and resolution dated 14.03.2005 in the context of terminating the services of the plaintiff were illegal, null and void and the plaintiff was entitled for reinstatement as a Secretary along with all back wages and

all other consequential benefits w.e.f. 28.08.2004.

[3]. The suit was dismissed by the trial Court vide judgment and decree dated 06.01.2017. The lower Appellate Court with reference to the factual details on record found that there was violation of principles of natural justice inasmuch as that no show cause notice was issued, nor any chargesheet was issued. No inquiry was held before terminating the services of the plaintiff/respondent No.1. Termination order was passed on 14.03.2005 in utter violation of principles of natural justice and doctrine of *audi alteram partem* was attracted as the defendant-Department had violated the same.

[4]. If the appellant-Society has violated the principles of natural justice and doctrine of *audi alteram partem*, only the civil court has jurisdiction under Section 9 CPC to interfere on the strength of law laid down by the Hon'ble Apex Court in **Dhulabhai vs. State of Madhya Pradesh, AIR 1969 Supreme Court 78**, **Om Parkash vs. Dodewala Cooperative Agricultural Society, 1982 CLJ 637** by the Punjab & Haryana High Court and **State of Haryana vs. Vinod Kumar, 1986(1) PLR 222 (Full Bench)** by the Punjab & Haryana High.

[5]. The respondent No.1 has already retired from the service. His services were illegally terminated. The lower Appellate Court made necessary direction for considering reitral

benefits of the plaintiff/respondent No.1 in para 17 of the judgment. For ready reference the same is reproduced hereasunder:-

“17. Hence in view of the above discussion Ld. Trial court has wrongly dismissed the suit of the appellant-plaintiff by deciding the issue no.1 and 2 against the appellant-plaintiff and in favour of the respondent-defendant which were liable to be decided in favour of the appellant-plaintiff and against the respondent-defendants and accordingly in view of the above discussion the issue no.1 and 2 are decided in favour of appellant-plaintiff against the respondent-defendants by setting aside termination as wrong and illegal partly because the appellant-plaintiff has already attained the age of superannuation and accordingly he cannot be reinstated on the post of Secretary as claimed. Hence the respondents are directed to consider the claim of benefits attached to his service since the date of suspension till the date of his superannuation for which he was entitle to receive by considering his notice Ex.P1 as his representation in this regard and also at the same time appellant-plaintiff is set at liberty to file his fresh representation to claim his benefits attached with his service on the post of Secretary since the date of suspension till date of superannuation to the respondents within a period of one month from the date of receipt of certified copy of judgment of this court and thereafter the respondent-defendants are directed to decide the representation by giving full opportunity of hearing to the appellant-plaintiff regarding the back wages of service benefits if any within 3 moths. Accordingly with this direction this appeal is partly allowed and disposed off. Copy of Judgment be sent to the Ld. Trial court, and also to the respondents for compliance. Decree sheet be prepared. No order to cost. File be consigned to the record room.”

[6]. In view of aforesaid legal position and in my considered

opinion, the plaintiff/respondent No.1 on deemed reinstatement is entitled for the aforesaid benefits/retiral benefits. No law point worth cognizance is involved in the present appeal. The findings recorded by the lower Appellate Court cannot be held to be illegal or result of any misreading of evidence. The appeal is found to be totally devoid of merits and is accordingly dismissed.

October 31, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No