

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

**CWP No. 6015 of 2021
DATE OF DECISION: 08.09.2021**

Naresh Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sidharth Gupta, Advocate for
Mr. Sumeet Jain, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is qua an order dated 23.07.2003 (Annexure P-5) passed by respondent No.3- General Manager, Haryana Roadways, Jhajjar, whereby his four annual increments with cumulative effect, have been stopped.

2. Against the said order, an appeal was preferred by him before the Additional Transport Commissioner-cum-Appellate Authority, which was dismissed vide an appellate order dated 25.08.2014 (Annexure P-9) and revision against the same also met similar fate vide an order dated 07.12.2020 (Annexure P-10) passed by the Principal Secretary, Government of Haryana, Transport Department.

3. Though the revision was dismissed being time barred, but be that as it may, the petitioner at the relevant time chose to assail the punishment order

order by way of filing a civil Suit No. 51 of 06.06.2005 (Annexure P-6). The suit though resulted in a decree in favour of the petitioner but an appeal filed by the State resulted in reversal of the judgment and decree rendered by the trial Court vide an Appellate order dated 28.11.2008 (Annexure P-7).

4. Aggrieved, the petitioner filed a Regular Second Appeal bearing No.2574 of 2009 before this Court which was dismissed vide detailed order and judgment dated 17.03.2010 (Annexure P-8) by learned Brother Ranjit Singh, J. (as he then was) in the following terms :

“There is no doubt that the criminal case as well as the departmental proceedings primarily were on the basis of version given by Raj Singh, (defendant No.4), who was allegedly caused injuries by the appellant. The departmental enquiry was held after the criminal case where Raj Singh appeared and fully supported his complaint. Rather, he gave evidence to the effect that he had not deposed against the appellant in criminal trial due to fear and constant threat advanced to him by the appellant alongwith two other persons. Raj Singh was not confronted with his previous statement and no suggestion was given to him that what he was stating before the departmental enquiry was in contradiction to his version given before the criminal Court. The version of Raj Singh was corroborated by two other independent witnesses appearing on behalf of the Department, who had witnessed this assault. Even the appellant had not denied the fact that there was a quarrel and an assault but gave different reasons in this regard. He did not give any suggestion to complainant Raj Singh that he had not given beating to him. The finding by the Enquiry Officer, thus, was based on this evidence”.

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In this view of the factual and legal position, the submission made by learned counsel for the appellant cannot be accepted. Mere fact that the appellant was acquitted in the criminal case would not conclude the departmental proceedings as urged by him and this question of law has been rightly decided by the first Appellate Court. No interference in the Regular Second Appeal, thus, is called for.

The Regular Second Appeal is accordingly dismissed”.

5. In the course of present writ proceedings, vide an order dated 16.03.2021, the petitioner was confronted with the aforesaid situation and following order was passed by this Court :

“On being posed a query as to how the present petition is maintainable, especially in the circumstances when the order passed for awarding the punishment to the petitioner, which had been assailed by way of civil suit, has been upheld by this Court vide the judgment as rendered in RSA No. 2574 of 2009 (Naresh Kumar v . State of Haryana and others) on 17.03.2021 and the same has also attained the finality, learned counsel for the petitioner seeks time to cite some case law on this point. Adjourned to 23.04.2021.”

5. Today when the case is taken up for arguments, learned counsel for the petitioner is unable to give any satisfactory response to the aforesaid observations of this Court and on the other hand, seeks time to file replication.

6. Replication is not a matter of right. In any case, in the instant proceedings, there is no requirement of any replication in view of the preliminary objection raised by the State in its written statement, which is purely legal in nature. Therefore, request for filing replication is declined.

7. The writ petition is clearly hit by delay and laches and principles of *res judicata* and is thus not maintainable. Even otherwise, challenge to the punishment order is time barred as rightly held vide the revision order aforesaid.

8. Dismissed. No order as to costs.

SEPTEMBER 08, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No