

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-828-1990 (O&M)

Date of decision:03.11.2023

Reserved on: 19.10.2023

Food Corporation of India and others

..Appellants

Versus

Het Ram

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ish Puneet Singh, Advocate and
Mrs. Jatinderpal Kaur, Advocate for the appellants

Mr. K.S.Khehar, Advocate for the respondent

ANIL KSHETARPAL, J

1. This Regular Second Appeal, filed by the Food Corporation of India (hereinafter referred to as 'the Corporation') has come up for the final disposal after a period of 33 years. In the meantime, the respondent was reinstated in service and on attaining the age of superannuation, he stood relieved from the service on 23.07.2005, as this Court did not grant stay on reinstatement of the plaintiff, as ordered by the courts below.

2. Now, the only question that remains to be adjudicated is with regard to the payment of the back wages.

3. The respondent was charge-sheeted and the inquiry officer, after conducting a domestic inquiry, held that the plaintiff (respondent) is guilty of the said charges. The punishing authority

(the Regional Manager), while agreeing with the report of the inquiry officer, imposed the punishment of reducing the post of the plaintiff to the lower post of a Technical Grade II, until he was found fit, after the period of 4 years. It was further held that the suspension period shall not be treated as the period spent on duty. The appellate authority enhanced the punishment imposed to that of dismissal from the service vide order dated 14.03.1983. The plaintiff filed a suit, which was partly decreed by the court. The court held that the inquiry proceedings and the report of the inquiry officer does not suffer from any error and perversity, however, the order passed by the appellate authority, dismissing the respondent (plaintiff) from the service was set aside. The order passed by the punishing authority was upheld. It was held that the bar for promotion for a period of 4 years would run from 20.02.1981. The first appeal filed by the Corporation and the cross objections filed by the plaintiff were dismissed on 04.10.1989 by the First Appellate Court. On 03.09.1990, this Court, while deciding an application under Order XLI Rule 5 of the Code of Civil Procedure, 1908, held that there will no stay on the reinstatement of the plaintiff, however, he will not be entitled to be the back arrears. The Special Leave Petition filed by the Corporation before the Supreme Court was dismissed on 15.07.1991. With these developments, the present appeal has come up for final disposal.

4. Learned counsel representing the appellants contends that both the courts have held that there was no error in the procedure adopted by the Corporation in conducting the inquiry and the finding of the punishing authority as well as the appellate authority does not suffer from any procedural error. He submits that the civil court should not have interfered with the order.

5. On the other hand, the learned counsel representing the respondent has defended the order.

6. On the direction of the Court, after taking instructions from the respondent, the learned counsel representing the respondent has stated that the respondent has no objection if the back wages are restricted to 50% of the amount payable.

7. This Court has considered the submissions made by the learned counsel representing the parties. As already noticed, the respondent was reinstated and on attaining the age of superannuation, he has already retired. At this stage, it is not considered appropriate to decide the appeal on merits, as it would be an exercise in futility.

8. Keeping in view the aforesaid development, the appeal is disposed of with the observations that the respondent shall only be entitled to the payment of 50% of the back wages from the date of the judgment passed by the trial court till the date of his reinstatement.

9. All the pending miscellaneous applications, if any, are also disposed of.

03.11.2023

(ANIL KSHETARPAL)

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JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No