

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

RSA No.406 of 1992 (O&M)

Date of Order:04.10.2023

State of Punjab and another

.Appellants

Versus

Inderman Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. Vikas Arora, AAG, Punjab.**
 Mr. Jarnail Singh Saneta, Advocate, for the respondent.

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by the courts below is assailed by the defendant-State of Punjab in this regular second appeal.

2. The plaintiff filed a suit for grant of decree of declaration that the order dated 29.12.1983, passed by the Superintendent of Police, City, Ludhiana, dismissing him from service is illegal, which was affirmed in appeal as well in the revision petition. It has been found that the respondent was dismissed from service but the domestic inquiry was defective.

3. It may be noted here that the respondent was dismissed from service on the ground that he habitually remained absent from duty for a period of five months. It has come on record that the respondent during all this while lost his three adolescent children and his wife had to be hospitalized on account of shock.

4. Pursuant to the judgment passed by both the courts below, the respondent was taken back in service and he has retired. He is also drawing the regular pension. While issuing the notice of motion, the recovery of back wages was stayed.

5. The learned counsel representing the appellant submits that the appeal is practically rendered infructuous except the issue with regard to the liability to pay back wages. He submits that the respondent remained absent without getting the leave sanctioned and therefore the State cannot be made liable to pay the amount.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. In the appropriate cases, the Court can mould the relief in exercise of powers under Order VII of the Code of Civil Procedure, 1908. However, as already noticed, the respondent lost his three adolescent children within a short duration of five months. The employer is expected to act reasonably. The loss suffered by the respondent was immense which could not be compensated monetarily or otherwise. In such circumstances, the State authorities were required to take a holistic view rather than taking a narrow view of the matter. Moreover, the respondent was absent only for five months. Thereafter, he has been kept out of service on account of illegal order of dismissal from service.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Dismissed.

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

October 04, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO