

[357] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.747 of 1992
Date of Decision :22.02.2023

State of Haryana and another ...Petitioners

versus

Ram Dhari SinghalRespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Krishan Kumar Chahal, Addl. AG, Haryana.

B.S. Walia, J. (Oral).,

[1] Despite service, none is present on behalf of the respondent.

[2] Challenge by the State of Haryana in the instant Regular Second Appeal is to the judgment and decree dated 19.12.1991 passed by the learned Addl. District Judge, Sonapat, reversing the judgment and decree dated 18.02.1989 passed by the learned Sub Judge 1stClass, Sonapat in Civil Suit No.231 of 1988.

[3] A perusal of the judgment and decree dated 18.02.1989 passed by the learned trial Court reveals that Civil Suit No.231 of 1988 was filed by the respondent / plaintiff for permanent injunction for restraining the appellants-defendants from effecting recovery of cost of stolen pipes etc from the plaintiff and on the basis of pleadings of the parties, the following issues were framed:-

“1. Whether the alleged amount by way of penalty is illegal imposition and is not binding and is not recoverable from the plaintiff, as alleged? OPP.

2. Whether the plaintiff has no locus standi to file the present suit? OPD.

3. Whether the suit is not maintainable in the present form? OPD.

4. *Whether the suit is bad for want of valid notice u/s 80 C.P.C.? OPD.*

5. *Relief. ”*

Thereafter on the basis of evidence led by the parties, issue Nos.1 to 3 were decided against the respondent-plaintiff and in favour of the appellants-defendants and in view thereof the suit was dismissed.

[4] That on appeal by the respondent-plaintiff, the learned Addl. District Judge, Sonapat in paragraph No.15 of his judgment came to the conclusion that fixing of sole responsibility qua the loss of pipes on the plaintiff on the basis of departmental enquiry was not legal because apart from the respondent-plaintiff, other staff was also on duty in the reach during the period in question, therefore, they were also equally liable for the loss suffered by the Government on account of loss of pipes from the above mentioned reach.

[5] Accordingly, the learned Addl. District Judge, Sonapat, while holding that the respondent-plaintiff alone could not be penalized despite a number of persons being responsible accepted the appeal, set aside the Judgment and decree dated 18.02.1989 passed by the learned trial Court and decreed the suit of the respondent-plaintiff while restraining the appellants-defendants from recovering the whole of the loss of the pipes from the salary of the respondent-plaintiff, while leaving it open to the appellants-defendants to assess the amount of loss to be recovered from the respondent-plaintiff due to his negligence.

[6] Learned Addl. AG, Haryana, has fairly conceded that it is an admitted position that apart from the respondent-plaintiff there were a

number of other officers/employees working in the said reach (area) and that in the circumstances, fixation of liability on the respondent-plaintiff alone was not justified and at best the loss could have been recovered from the respondent-plaintiff in proportion to negligence attributable to him.

[7] No other point has been argued.

[8] In the light of the position noted above, especially paragraph Nos. 5 & 6, I do not find any infirmity with the judgment passed by the learned First Appellate Court reversing the judgment of the learned trial Court as it is well settled law that even in matters of imposition of punishment amongst similarly situated employees, there can be no discrepancy. Since, in the instant case, the department has been granted liberty to take out proceedings against the respondent-plaintiff for effecting recovery of the loss in proportion to the negligence of the respondent, no question of law much less substantial question of law arises for consideration in the instant case. Accordingly, finding the appeal bereft of merit, the same is *dismissed*.

(B.S. Walia)
Judge

22.02.2023
'Rajneesh'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No