

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

RSA-1517-1994 (O&M)
Date of Decision :23.03.2023

State of Punjab and others

...Appellants

Versus

Constable Jarnail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurvinder Singh, AAG, Punjab
for the appellant-State.

* * *

Harsimran Singh Sethi, J. (Oral)

The present regular second appeal has been filed by the State challenging the judgment and decree of the Lower Appellate Court dated 27.11.1993 by which, the decree and judgment of the trial Court dated 10.08.1989 has been set aside and the suit filed by the respondent-plaintiff was allowed.

It may be noted here that despite service effected on 20.04.2019, no one is appearing on behalf of the respondent-plaintiff, hence, he is being proceeded exparte.

Respondent-plaintiff was appointed as Constable on 02.01.1975 in the Punjab police. On 13.12.1984, the respondent-plaintiff was found in a drunkard state by the Deputy Superintendent of Police during the checking. Respondent-plaintiff was got examined from the Civil Hospital, Dera Bassi and as per the medical report, respondent-plaintiff was under the influence of liquor while on duty.

Keeping in view the said misconduct, the departmental proceedings were initiated against the respondent-plaintiff and after the charges were proved vide order dated 15.01.1986 punishment of stoppage of three increments with cumulative effect was imposed upon him. Against the said order of punishment, respondent-plaintiff filed an appeal before the DIG, Patiala Range, Patiala, which was also dismissed on 16.05.1986.

Being aggrieved against the order dated 15.01.1986 imposing punishment of stoppage of three increments with cumulative effect as well as against the order dated 16.05.1986 dismissing his appeal, respondent-plaintiff filed a civil suit challenging the said orders. Keeping in view the evidence which had come on record, suit filed by the respondent-plaintiff was dismissed by the trial Court vide order dated 10.08.1989. Feeling aggrieved against the judgment and decree dated 10.08.1989 of the trial Court, an appeal was preferred by the respondent-plaintiff before the Lower Appellate Court, which came to be accepted vide order dated 27.11.1993 hence, the present regular second appeal by the appellant-State.

It may be noticed here that after the decision of the Lower Appellate Court dated 27.11.1993 and filing the present regular second appeal, respondent/plaintiff on the allegation of unauthorized absence from duty was dismissed from service vide order dated 31.01.1997. The said order of dismissal from service was challenged by the respondent-plaintiff by way of filing another civil suit in the year 1998, which was dismissed by the trial Court vide order dated 10.01.2000. Even the appeal filed by the respondent-plaintiff against the said order was dismissed by the lower Appellate Court vide order dated 18.04.2003 and even the regular second appeal filed by the respondent-plaintiff being RSA-3497-2003 was also

dismissed by this Court on 09.09.2004 and the respondent-plaintiff is no longer in service since 1997.

The appellant-State is in present regular second appeal with regard to the imposition of punishment of stoppage of three increments with cumulative effect imposed vide order dated 15.01.1986. The Lower Appellate Court has held that Senior Superintendent of Police, who is in charge of the district had no power to initiate departmental enquiry and if any departmental enquiry has been ordered by the Senior Superintendent of Police, the same cannot be held to be valid hence, the enquiry proceedings conducted against the respondent-plaintiff was held to be bad by the Lower Appellate Court.

It may be noticed here that even subsequent to the imposition of punishment of stoppage of three annual increments with cumulative effect, Senior Superintendent of Police concerned had dismissed the respondent-plaintiff from service, which order has already been upheld up to this Court and has attained finality so as to hold that Senior Superintendent of Police was competent to initiate departmental proceedings against the respondent-plaintiff. No rule has been cited by the Lower Appellate Court while holding that Senior Superintendent of Police of the district is not competent to impose a punishment. Finding of the Lower Appellate Court that Senior Superintendent of Police is not equivalent to the post of Superintendent of Police as envisaged under the Punjab Police Rules, 1934 cannot be accepted. Punjab Police Rules are of the year 1934 and at that time, the head of the district is used to be the Superintendent of Police and now keeping in view the hierarchy, Senior Superintendent of Police is the head of the District concerned. That being

so, findings recorded by the Lower Appellate Court that Senior Superintendent of Police was not competent to initiate departmental enquiry against the respondent-plaintiff is not correct and cannot be sustained.

Keeping in view the same, judgment and decree dated 27.11.1993 of the Lower Appellate Court cannot be sustained in the eyes of law and is perverse to the Punjab Police Rules, 1934 and settled principle of law especially, when in the subsequent proceedings, qua the respondent-plaintiff order of dismissal of respondent-plaintiff passed by the Senior Superintendent of Police has been upheld up to this Court. Hence, the present regular second appeal is allowed and the judgement and decree of the Lower Appellate Court dated 27.11.1993 is set aside and the judgement and decree of the trial Court dated 10.08.1989 is restored.

March 23, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No