

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

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2023:PHHC:164620

1. RSA-466-1996

Date of decision: 21.12.2023

HARBANS LAL

..Appellant

Versus

STATE OF PUNJAB & ORS.

..Respondents

2. RSA-668-1996 (O&M)

STATE OF PUNJAB & ORS.

..Appellants

Versus

HARBANS LAL

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Aggarwal, Advocate
and Mr. Rahul Sharma, Advocate
for the appellant (in RSA-466-1996)
for respondent (in RSA-668-1996).

Mr. Gurpreet Singh, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

1. These two cross-appeals have been filed by the plaintiff as well as the State of Punjab (defendant) to challenge the correctness of the judgment and decree passed by the First Appellate Court.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief are required to be noticed.

3. The plaintiff filed a suit for grant of decree of declaration to the effect that the order passed by the disciplinary authority on 25.07.1988, imposing minor penalty of stoppage of three increments without cumulative effect and recovery of Rs.1,09,909.17/-, is bad, illegal and void. The plaintiff joined as Block Development and Panchayat Officer on 17.09.1982. It was found that he has made an advance payment of Rs.1,36,291.86/- to the brick

kiln owner for the purchase of four lakh bricks in violation of instructions issued by the State on 29.04.1983. However, 76,000 bricks were supplied, whereas, the remaining bricks were never supplied. In the beginning, the disciplinary authority issued a charge sheet under Rule 8 of the Punjab Civil Services (Punishment and Appeals) Rules, 1970, calling upon the plaintiff to file a reply. After the receipt of reply, the disciplinary authority had changed its mind and proceeded to impose a minor penalty upon the plaintiff. The plaintiff filed a suit challenging the correctness of the aforesaid order of minor penalty. The trial Court dismissed the suit, however, the First Appellate Court slightly modified the judgment passed by the trial Court. It was held that there is no error in the penalty order stopping three annual increments without cumulative effect, however, the recovery of money i.e. loss results in double jeopardy. The State of Punjab has filed an appeal against the aforesaid order, whereas, the plaintiff prays for setting aside the order dated 25.07.1988.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. As far as the State's appeal is concerned, it may be noted here that a comprehensive order was passed by the disciplinary authority for the stoppage of three annual increments without cumulative effect while ordering the recovery of loss suffered by the State. The First Appellate Court stayed the recovery of money for three years to enable the plaintiff to recover the amount or the bricks. In the considered view of the Court, the order passed by the disciplinary authority does not amount to double jeopardy. It is a case of comprehensive penalty. It has been ordered by the

disciplinary authority after taking into consideration all aspects of the matter. It is evident that the plaintiff made an advance payment of Rs.1,36,291.86/- in violation of the instructions issued by the State. In the year 1986-87, the aforesaid amount was considered a huge figure. The plaintiff being a government servant was required to follow the government instructions.

6. Keeping in view the aforesaid facts, the appeal filed by the State i.e. RSA-668-1996, is allowed. The First Appellate Court has erred in staying the recovery of the loss suffered by the State.

7. Consequently, the judgment of the First Appellate Court to the aforesaid extent is set aside.

8. With these observations, both the appeals are disposed of.

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

December 21st, 2023

(ANIL KSHETARPAL)
JUDGE

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