

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

(207-A)

RSA-2129-2000

Date of Decision : 04.05.2023

State of Punjab and others

...Appellants

Versus

Darshan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurvinder Singh, Assistant Advocate General, Punjab.

Mr. A.P. S. Rehan, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

1. In the present regular second appeal, the challenge is to the judgments and decrees of the courts below by which, the suit filed by the respondent-plaintiff has been allowed.

2. It may be noticed that in the suit filed by the respondent-plaintiff, the challenge was to the order dated 01.01.1990 by which, the respondent-plaintiff was prematurely retired. While setting-aside the said order, the courts below came to the conclusion that during the service career, certain punishments were imposed upon the respondent-plaintiff of forfeiting his service, which service period is to be deleted while computing the eligibility so as to prematurely retire the respondent-plaintiff and in case the said forfeited service is not taken into consideration, the order of premature retirement could not have been passed keeping in view the remaining service which the respondent-plaintiff had to his credit.

3. Learned counsel for the appellants-defendants submits that issue whether the forfeited service is to be counted while calculating the total service rendered by an employee is no longer res-integra as the said question of law, as raised in the present appeal, is squarely covered by the decision of the Hon'ble Supreme Court of India in Civil Appeal Nos. 1799-1800 of 1990 titled as ***Chamba Singh Vs. State of Punjab***, decided on 09.04.1997, according to which, the total length of service is to be seen and the period for which the punishment has been imposed, is not to be excluded hence, the findings recorded by the courts below for allowing the claim of the respondent-plaintiff, is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in ***Chamba Singh's case (supra)***.

4. Learned counsel for the respondent is not able to rebut the judgment of the Hon'ble Supreme Court of India in ***Chamba Singh's case (supra)***, to contend that the same is not applicable in the facts and circumstances of the present case.

5. Keeping in view the facts and circumstances of the present case, the question of law raised in the present appeal is covered by the decision of the Hon'ble Supreme Court of India in ***Chamba Singh's case (supra)***. Finding recorded by the courts below is contrary to the settled principle of law in ***Chamba Singh's case (supra)***, cannot be sustained. Keeping in view the facts and circumstances of the present case, the present appeal is allowed and judgments and decrees of the courts below are set-aside being contrary to the settled principle of law and the suit filed by the respondent-plaintiff is dismissed.

5. Decree sheet be prepared accordingly.
- Any civil miscellaneous application, if pending, is disposed of.

May 04, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No