

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(106) RSA-1-2022 (O&M)
Date of Decision : 30.01.2023
State of Haryana and others ...Appellants

Versus

Ramesh Pal Makkar ...Respondent

(108) RSA-1691-2022 (O&M)
State of Haryana and others ...Appellants

Versus

Bikram Singh ...Respondent

(108/A) RSA-1693-2022 (O&M)
State of Haryana and others ...Appellants

Versus

Har Lal Bishnoi ...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana
for the appellants.

Mr. Jasbir Mor, Advocate for the respondent(s)
in RSA-01.2022 and RSA-1691-2022.

Mr. Sandeep Punchhi, Advocate for the respondent
in RSA-1693-2022.

Harsimran Singh Sethi J. (Oral)

CM-5538-C-2022 in RSA-1691-2022

Application is allowed, as prayed for.

CM-5544-C-2022 in RSA-1693-2022

Application is allowed, as prayed for.

RSA-1-2022 (O&M), RSA-1691-2022 (O&M) and RSA-1693-2022 (O&M)

By this common order, the regular second appeals, details of which have been given above, are being disposed of as all the appeals involve the same question of law on similar facts.

Learned counsel for the appellants-defendants argues that in the present appeals, the orders imposing the punishment of recovery of loss suffered by the appellant-State, has been set-aside by the court below without noticing the fact that in the enquiry proceedings, the respondent(s)-plaintiff(s) were held guilty of one or the other allegation. Learned counsel for the appellants-defendants submits that even if it is assumed for the sake of argument that the payments, which were released by the respondent(s)-plaintiff(s), were with regard to the construction at the site, but they were negligent in ensuring the completion as well as running of the project in question hence, without giving the liberty to the department to pass a fresh order, the orders of punishment have been set-aside by the trial court, which was beyond the jurisdiction of the trial court keeping in view the judgment of the Hon'ble Supreme Court of India passed in Civil Appeal No. 10386 of 2014 titled as ***Union of India and others Vs. P. Gunasekaran***, decided on 19.11.2014. Hence the judgments of the courts below are liable to be modified at least so as to pass a fresh order qua the disciplinary proceedings as envisaged under law.

Learned counsel for the respondent(s)-plaintiff(s) submit that though the orders of punishment have been set-aside but the grievance of the appellants-defendants is that they have not been given a chance to re-

consider the aspect of punishment and to pass a fresh order on the disciplinary proceeding. The appellants-defendants state that they have no objection in case, after the setting-aside of the orders of punishment in question by the court below, the appellants-defendants are given a chance to re-consider the case with regard to the passing of a fresh order so as to impose appropriate punishment orders, if any, in view of the facts and circumstances of this case.

As prayed for by the learned counsel for the parties, the present appeals are disposed of in above terms that the judgments of the courts below are modified to the extent that though the orders of punishment have been held to be bad being excessive as well as for not following the process envisaged under rules governing the service, the case is remanded back to the punishing authority again to pass appropriate fresh order after considering all the facts including whether the appellants-defendants were negligent or whether the department has suffered any peculiar loss in view of the facts and circumstances of the present case.

A photocopy of this order be placed on the files of other connected cases.

CM-4-C-2022 in RSA-1-2022, CM-5540-C-2022 in RSA-1691-2022 and CM-5546-C-2022 in RSA-1693-2022

As the main appeals are disposed of, present applications also stand disposed of.

January 30, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No