

CM-4691-C-2023 in/&
RSA-1461-2021 (O&M) -1-

2023:PHHC:066946

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-4691-C-2023 in/&
RSA-1461-2021 (O&M)
Date of Decision :04.05.2023

Municipal Council, Rahon

....Appellant

Versus

Harsh Bala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.C. Garg, Advocate for appellant.

None for respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-4691-C-2023

Present application has been filed for recalling the order dated 24.04.2023 passed by this Court by which, the main appeal was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 24.04.2023 passed by this Court is recalled and the main appeal is ordered to be restored to its original number and status and is taken up for hearing today itself.

RSA-1461-2021

Present regular second appeal has been filed challenging

judgments and decrees of the Courts below dated 11.02.2020 and 03.09.2021 by which, punishment of 25% cut in pension imposed upon the respondent-plaintiff, has been held to be invalid keeping in view the rules governing the service and a direction has been given to appellant-Municipal Council to release the complete pensionary benefits of the respondent-plaintiff along with interest.

Certain facts need to be noticed for the correct appreciation of the issue in hand.

Respondent-plaintiff was working with the Municipal Council, Rahon and retired from service on attaining the age of superannuation on 30.04.2017. It is a conceded position that up to the date of retirement, no departmental proceedings were initiated against the respondent-plaintiff but there was only an objection raised by the Audit department, which was to be looked into by the appellant-Municipal Council wherein certain irregularities were pointed out.

It is a conceded position that the said audit objection related to the years 2005-2008 and after the retirement of the respondent-plaintiff, appellant-Municipal Council imposed punishment of 25% cut in the pension of the respondent No.1 on the basis of the said audit objection.

The said cut imposed in the pension was challenged by the respondent-plaintiff by filing a civil suit, which civil suit was allowed by the trial Court vide judgment and decree dated 11.02.2020 and punishment of 25% cut in pension was held to be bad as the same was imposed without initiating any departmental proceedings keeping in view the rules governing the service. Even the appeal filed by the appellant-Municipal Council against

the judgment and decree of the trial Court dated 11.02.2020 was also dismissed by the lower Appellate Court vide judgment and decree dated 03.09.2021 upholding the judgment and decree of the trial Court. Hence the present regular second appeal.

Learned counsel for the appellant argues that once there was an audit objection wherein, it was found that certain embezzlement has been done and the said objection was related to year 2005-2008 imposing the punishment of cut in pension of the respondent-plaintiff was perfectly valid.

On being asked as to whether any cut in pension can be imposed without initiating disciplinary proceedings as cut in pension amounts to punishment, which punishment can only be imposed after holding the departmental enquiry and further whether after retirement any disciplinary proceedings in respect of the incident which was four years old can be initiated against an employee keeping in view the rules governing the service on this said aspect as the respondent-plaintiff had already retired on 30.04.2017 and the allegations of the audit objection related to the year 2005 to 2008.

Learned counsel for the appellant very fairly concedes that no departmental enquiry was held before imposing the punishment of cut in pension upon the respondent-plaintiff and further keeping in view rules 2.2 of the Punjab Civil Services Rules Vol-II, no enquiry can be held against a retired employee in respect of the allegations, which were four years old.

That being so, in the facts and circumstances of the case, noticed hereinbefore, it cannot be said that judgment and decrees of the Courts below are perverse in any manner so as to require any interference by

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this Court.

Keeping in view the facts and circumstances recorded hereinbefore, no interference is called for by this Court and the present regular second appeal is accordingly dismissed.

May 04, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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