

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

(234)

RSA-5575-2016

Date of Decision : 28.03.2023

Pawan Kumar**...Appellant****Versus****State of Punjab and others****...Respondents*****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. Amit Kaith, Advocate for the appellant.

Mr. Gurvinder Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

In the present regular second appeal, the challenge is to the judgment and decree of the lower appellate court dated 29.04.2016 by which, the judgment and decree of the trial court dated 26.05.2014 was set-aside and the suit filed by the appellant-plaintiff was dismissed.

Certain facts need to be mentioned for the correct appreciation of the controversy in hand.

The appellant-plaintiff was appointed as a Conductor in the Punjab Roadways in the year 1982. He was appointed in the pay scale of ₹5910-20200 with the grade pay of ₹1900/-. In the year 2010, after 18 years of service, the appellant-plaintiff filed a civil suit claiming that his pay has not rightly been fixed and he was drawing lesser salary as compared to his entitlement, hence, he prayed that his pay be re-fixed after giving him the

benefit of annual increment qua the service rendered by him.

Notice was issued to the respondents-defendants and in the reply, the respondents-defendants brought to the notice of the Court that there were 13 punishments, which were imposed upon the appellant-plaintiff, the details of the punishment were given along with the number of the orders and the dates of the order of punishment. The trial court allowed the suit and directed that the appellant-plaintiff be granted increment for the service rendered as the orders of punishment could not be proved.

Against the judgment and decree of the trial court dated 26.05.2014, an appeal was preferred by the respondents-defendants, which came to be decided by the lower appellate court vide judgment and decree dated 29.04.2016 and the judgment and decree of the trial court dated 26.05.2014 was set-aside and the suit filed by the appellant-plaintiff was dismissed. The reason given by the lower appellate court in its judgment and decree was that once the punishment has been brought to the notice of the court along with the dates and office order numbers and the same also stood recorded in the service book, the punishment orders were not required to be proved, especially when, there was no challenge to the same at the hands of the appellant-plaintiff. Hence, the present regular second appeal.

Learned counsel for the appellant-plaintiff submits that the orders of punishment though, mentioned in the reply, were not brought on record, hence, it cannot be said that any punishment was imposed upon the appellant-plaintiff so as to deny him the benefit of increments. Learned counsel for the appellant-plaintiff argues that the findings recorded by the lower appellate court are perverse and are liable to be set-aside.

Learned counsel for the respondents-defendants submits that once the orders of punishments, which were imposed, were brought to the notice of the court along with the dates and office order numbers and the same related to the year started from 1985 onwards i.e. 25 years prior to the filing of the civil suit and office record is weeded out but the service book contained information qua all the punishments imposed, which has rightly been taken into account by the lower appellate court to record the finding that keeping in view the punishments imposed, the increment was not granted to the appellant-plaintiff, which increments cannot be released in favour of the appellant-plaintiff, hence, the appeal filed by the appellant-plaintiff may kindly be dismissed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, there is no challenge to the punishment imposed on various occasions. The details of the punishment along with the order numbers and dates were brought to the notice of the court, delay of which has been recorded in the judgments as well. In the absence of any challenge to the punishments, the said punishment orders were not required to be proved, hence, the judgment of the lower appellate court is perfectly valid and legal and is consonance with the settled principle of law.

The argument of the learned counsel that once the punishments have not been proved, he was entitled for the increments. It may be noticed that the punishments were imposed starting from the year 1985 onwards. The details of the punishments have been noticed by both the courts below. Once, the punishments also give the order numbers and the same were

imposed starting from the year 1985 onwards and those punishments found mention in the service book also, the argument that the punishments should have been proved by the respondents-defendants by placing on record the orders of punishments, cannot be accepted. The record is weeded out periodically, hence, the punishments imposed 25 years prior to the filing of the civil suit, cannot be set-aside merely that the orders of punishments were not brought on record, especially when the numbers and the dates of the order have been given and the same also find mentioned in the service book, which service book has already been brought on record and proved.

Keeping in view the above, no interference is called by this court in the present regular second appeal qua the judgment and decree of the lower appellate court dated 29.04.2016.

Dismissed.

March 28, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No