

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

235 (04 cases) **RSA-6035-2016 (O&M)**
Date of Decision :28.03.2023

**State of Haryana through Collector Jind
and others** **...Appellants**

Versus

Baljit Singh **...Respondent**

RSA-6037-2016 (O&M)

**State of Haryana through Collector Jind
and others** **...Appellants**

Versus

Sanjay **...Respondent**

RSA-6036-2016 (O&M)

**State of Haryana through Collector Jind
and others** **...Appellants**

Versus

Hargian Singh **...Respondent**

RSA-6413-2016 (O&M)

**State of Haryana through Collector Jind
and others** **...Appellants**

Versus

Mukesh **...Respondent**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: **Ms. Vibha Tewari, AAG, Haryana
for the appellant-State.**

Mr. Surender Pal, Advocate for the respondent (s).

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Harsimran Singh Sethi, J. (Oral)

Learned counsel for the respondent(s)-plaintiff(s) submits that the judgments and decrees dated 04.12.2014 and 30.01.2016 passed by the Courts below by which, enquiry proceedings conducted in violation of rules of natural justice and order of punishment of stoppage of two annual increments was set aside, have already been complied with by the appellant in the execution proceedings and some of the respondent(s)-plaintiff(s) have already retired from service and others are close to their retirement.

Learned counsel for the appellant-State submits that though, the punishment imposed upon the respondent(s)-plaintiff(s) was set aside by the Courts below on the ground that proper procedure as envisaged under the rules was not followed while conducting the enquiry proceedings but still department should have been given liberty to proceed afresh from the stage where illegality/discrepancy occurred hence, the judgments dated 04.12.2014 and 30.01.2016 of the Courts below be modified to that extent so as to give another chance to the appellant-State to conduct the enquiry proceedings afresh from the stage where the discrepancy occurred.

Learned counsel for the respondent(s)-plaintiff(s) submits that the punishment of stoppage of two increments was imposed upon the respondent(s)-plaintiff(s), which was set aside by the Courts below on the ground that enquiry proceedings were not conducted in the manner envisaged under the rules and the judgments and decrees of the Courts below in question have already been complied with and some of the respondent(s)-plaintiff(s) have already retired from service hence, under

these circumstances, prayer of the appellant-State for remand of the case especially, when minor punishment was imposed should not be accepted as the judgments and decrees in question have already been complied with.

There is no dispute with regard to the proposition of law that in case departmental proceedings are being quashed on technicalities i.e. due to any illegality or violation of rules of natural justice, the Courts are to remand back the case to the punishing authority for passing a fresh decision from the stage at which the illegality first commenced but equally the Courts also have to see whether in the facts and circumstances of a particular case, remanding back the case so as to hold fresh enquiry proceedings will be fruitful or not. In the present case, some of the respondents/plaintiffs have already retired and are getting pension and others are at the verge of retirement. The allegations relating to imposition of punishment were not much serious and even punishment imposed upon the respondent/plaintiff was minor though, the same was set aside by the Courts below. Hence, present case is such that remand back of disciplinary proceedings to the punishing authority will not bear fruit and will rather harass the retired employees or the employees, who are at the verge of their retirement as pendency of the enquiry proceedings will result into withholding of their pensionary benefits and that too on the proposal of issuance of minor punishment.

Keeping in view the above stated facts that some of the respondent(s)-plaintiff(s) have already retired from service and some of them are at the verge of their retirement, keeping in view the findings recorded by the Courts below that the enquiry proceedings were not conducted in a manner envisaged under rules coupled with the fact that

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judgments and decrees of the Courts below in question have already been complied with since long, no interference is called for by this Court and the present regular second appeals are accordingly dismissed.

CM-15894-15899-15897-16828-C-2016

Applications are also dismissed.

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

March 28, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No