

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103+218)

RSA No. 774 of 2015 (O&M)

Date of Decision : 23.03.2023

Bahadur Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Virk, Advocate and
Mr. Darshan Singh Malwai, Advocate for the appellant.

Mr. Gurvinder Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-5768-C-2022

As the appeal is listed for today, the present application has become infructuous.

CM-5767-C-2022

Present application has been filed for placing on record documents as Annexures A-3 and A-4.

Application is allowed and documents as Annexures A-3 and A-4 are taken on record.

RSA-774-2015

In the present regular second appeal, the challenge is to the judgment and decree of the lower appellate court dated 02.12.2014 by which, the appeal filed by the respondents-defendants to challenge the judgment and decree of the trial court dated 22.02.2012 allowed the suit filed by the appellant-plaintiff, has been set-aside.

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

The appellant-plaintiff was enlisted as a Constable with the Punjab Police on 24.05.1990. In the year 2005, an FIR was registered against the appellant-plaintiff being FIR No. 641 dated 04.11.2005 under Sections 382, 342, 365, 427, 506, 34 IPC at Police Station Kotwali, Bathinda. Keeping in view the allegation being alleged against the appellant-plaintiff in the criminal proceeding, a departmental enquiry was initiated against him by serving him a charge-sheet on 30.11.2005. The enquiry proceedings were conducted and the Enquiry Officer proved the allegations alleged against the appellant-plaintiff in the enquiry report. The said enquiry report was furnished to the appellant-plaintiff for his comment and thereafter, keeping in view the gravity of the allegation, which duly stood prove, the appellant-plaintiff was dismissed from service vide order dated 08.05.2006.

Against the order of dismissal, a department appeal was preferred, which was also rejected by the appellate authority on 18.06.2007 after which, the appellant-plaintiff filed a revision petition before the Inspector General of Police, which was also rejected on 03.10.2007. Even the mercy petition filed before the Director General of Police was also dismissed on 29.12.2008. It may be noticed that in the meantime, the appellant-plaintiff was acquitted by the trial court on 09.05.2007 as the complainant had turned hostile and did not support the allegations.

As the appellant-plaintiff claimed to have rendered 15 years of service, after which he was entitled for pension, which he could not get due

to the order dismissing him from service dated 08.05.2006, a civil suit was filed challenging the order of dismissal and the order passed in the appeal, revision and the mercy petition with the prayer that he should be reinstated in service with all consequential benefits.

Keeping in view the evidence, which came on record and by interpreting the same, the trial Court held that once the similar allegations could not be proved before the criminal court and the plaintiff was acquitted on 09.05.2007, which was subsequent to the order of dismissal dated 08.05.2006, the order dated 08.05.2006 dismissing the appellant-plaintiff from service was liable to be re-considered by the respondents-defendants and a fresh enquiry should be conducted.

Aggrieved against the said decision of the judgment and decree of the trial court dated 22.02.2012, appeal was preferred by the respondents-defendants, which came to be decided on 02.12.2014. The lower appellate court by appreciating the evidence, which had already come on record, held that the enquiry was conducted in a manner envisaged under the rules governing the said aspect and further that the allegations alleged against him in the departmental enquiry were proved, subsequent acquittal of the appellant-plaintiff in the criminal case due to the fact that the complainant had turned hostile, is not a ground to reconsider the punishment of dismissal imposed upon the appellant-plaintiff in the departmental proceedings. The lower appellate court held that the enquiry was conducted in a manner required as no irregularity was pointed out keeping in view the evidence, which had come on record. The judgment and decree of the trial court dated 22.02.2012 was set-aside by the lower appellate court vide judgment and

decree dated 02.12.2014 and consequently suit filed by the appellant-plaintiff was dismissed. Hence, the present regular second appeal.

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

Learned counsel for the appellant-plaintiff has raised an argument that once the appellant-plaintiff had rendered 15 years of service at the time when he was dismissed from service in the year 2006, the punishment of dismissal imposed upon him is disproportionate to the charges alleged and proved.

With regard to the said argument, it may be noticed that the allegations, which were alleged against the appellant-plaintiff were serious in nature. The allegations alleged were related to the abduction and confinement of the complainant and giving severe beatings to the complainant and then robbing the complainant of the valuables including the gold finger ring as well as the currency amounting to Rs. 29,450/-. In the criminal proceedings, the appellant-plaintiff was only discharged as the complainant had turned hostile but once the allegations were proved in the departmental proceedings, it cannot be said that keeping in view the allegations alleged and proved, the punishment imposed was disproportionate. Once appellant-plaintiff was required to protect the public in accordance with law, violating the law and that too by a member of a disciplined force in a manner proved in the departmental proceedings, punishment imposed commensurate to the charges alleged and proved and the said aspect need no interference by this Court.

Another argument has been raised that in another case relating

to Constable Surjit Singh, who was also dismissed from service, but had more than 15 years of service, his punishment has been modified by the department itself from dismissal to that of the compulsory retirement so that said Surjit Singh could get pensionary benefits hence, the same treatment should have been extended to the appellant-plaintiff as well to avoid discrimination.

Qua the said argument, it may be noticed that the order passed in the case of Surjit Singh has been brought on record as Annexure A-1. The allegation against Surjit Singh was of absence and not relating to violation of Indian Penal Code. Once, the allegation against Surjit Singh was different, the parity cannot be claimed in that regard is without any cogent basis, hence, the said argument cannot be accepted and is accordingly rejected.

No other argument was raised.

Keeping in view the above, no ground is made out for interference by this Court in the judgment and decree of the lower appellate court dated 02.12.2014 by which, the suit filed by the appellant-plaintiff was dismissed by setting-aside the judgment and decree of the trial court dated 22.02.2012.

Dismissed.

Pending applications, if any, also stand disposed of.

March 23, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No