

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1311 of 2018 (O&M)

Reserved On: 18.10.2023
Pronounced On: 20.10.2023

Bhupinder Singh

... Appellant(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Harpal Singh Saggu, Advocate
for the petitioner(s).

Mr. Vikas Arora, Assistant Advocate General,
Punjab.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. In this second appeal, the correctness of the judgment and decree passed by the First Appellate Court has been challenged by the plaintiff. In substance, the dispute is with regard to the entitlement of the appellant to full salary for the suspension period from 08.10.2004 to 07.10.2006.

3. The appellant was appointed as a Lecturer in a Private Aided College. He was arrested in the case arising from FIR No. 33 dated

18.06.2004, registered under Section 302, 307, 325, 323, 506, 120-B, 148 and 149 IPC at Police Station Ghanaur, District Patiala. On his arrest, he was placed under suspension on 09.11.2004 and was reinstated in service on 07.10.2006. Ultimately, he was acquitted of the charges on 01.12.2008. Therefore, the dispute is with regard to the payment of difference in salary over and above the amount of subsistence allowance. It is an admitted position that the FIR was not registered at the behest of the respondent-Management and the criminal case arose from a dispute which was not related to his service. The First Appellate Court has held that the appellant is not entitled to the difference in the amount of salary and subsistence allowance for the period he remained under suspension and he is also not entitled to the gratuity for the aforesaid period.

4. This issue has been examined, in detail, by the Supreme Court in *Ranchhodji Chaturji Thakore v. Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat) and Another (1996)11 SCC 603*. Thereafter, once again, the matter has been examined in *Union of India and Others v. Jaipal Singh (2004)1 SCC 121*. In both the cases, the Supreme Court has concluded that the employees are only entitled to back wages from the date of acquittal. However, the employee is not entitled to back wages for the period of absence on account of his/her involvement in the criminal case due to the reason of suspension from service.

5. Heard the learned counsel representing the appellant at length and with his able assistance, perused the paper-book.

6. The learned counsel representing the appellant contends that the First Appellate Court has erred in reversing the judgment of the trial Court.

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The learned counsel further submits that once the appellant was acquitted, he is entitled to all the pecuniary benefits.

7. This Court has considered the submissions of the learned counsel representing the appellant. In view of the law laid down in *Ranchhodji Chaturji Thakore's case (supra)* and *Jaipal Singh's case (supra)*, there is no scope for interference.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by the First Appellate Court. Hence, the present appeal is dismissed.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

October 20, 2023

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No