

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular Second Appeal No. 4426 of 2018 (O&M)

Ex. C-I Joginder Singh
... Appellant(s)

Versus

State of Punjab and Another
... Respondent(s)

AND

2. Regular Second Appeal No. 5206 of 2018 (O&M)

Ex. C-I Joginder Singh
... Appellant(s)

Versus

State of Punjab and Another
... Respondent(s)

DATE OF DECISION: 24.08.2023

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Puneet Kumar Bansal, Advocate
for the appellant(s).

Mr. Ajit Singh Natt, Assistant Advocate General,
Punjab, for the respondents.

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*.

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up for hearing. In fact, the plaintiff's (appellant's) suit was partly decreed by the trial Court, however, before the First Appellate Court, two appeals were filed, one was filed by the plaintiff and another by the State of Punjab. Both the appeals were decided by the First Appellate Court by a common judgment. That is how the appellant has filed these two appeals.

3. While filing the suit before the Court of first instance, the plaintiff has sought the decree of declaration that the order dismissing him from service on 22.01.2008, which was affirmed in appeal by the Appellate Authority on 20.03.2008, is illegal, null and void. The trial Court has partly decreed the suit to the extent of remitting the matter to the Disciplinary Authority. However, the First Appellate Court has set aside the same.

4. In fact, the appellant was working as a Constable. The FIR No. 5 dated 18.01.1993 was registered against him under Section 304 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC"), but the cancellation report was submitted. However, again a criminal complaint was filed which resulted in conviction of the appellant under Section 302 IPC vide judgment dated 13.09.1997. The appeal filed by the appellant was also dismissed. Subsequently, the conviction as well as the order of sentence was affirmed by the Supreme Court. In those circumstances, the Disciplinary Authority, while exercising its powers under Article 311 of the Constitution of India, read with Rule 16.2(2) of the Punjab Police Rules, 1934, dismissed him from service.

5. The learned counsel representing the appellant contends that the Punishing Authority has observed that the appellant fired in the air as the

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that the bullet accidentally hit the person who was standing at some height.

6. This Court has considered the submissions of the learned counsel representing the appellant. In fact, in a criminal trial, the appellant has been found to have intentionally murdered a person. Hence, at this stage, the argument has no substance.

7. 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.

8. The miscellaneous application(s) pending, if any, in both the appeals, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 24, 2023
“DK”

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