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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2369-1992

Date of decision:-23.05.2024

Punjab State and another

...Appellants

Versus

Dalbir Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

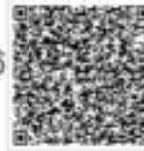
Present : Ms.Amrita Garg, AAG, Punjab
for the appellants.

Mr.Mayank Vashishth, Advocate for
Mr.Prateek Mahajan, Advocate
for the respondent.

SUVIR SEHGAL, J.(ORAL)

1. Defendants - appellants are in second appeal challenging the judgment and decree passed by the First Appellate Court, whereby suit of the plaintiff – respondent has been accepted.

2. Pleaded case of the plaintiff – respondent, who was working as a Conductor, is that three punishment orders dated 13.09.1984, 09.04.1985 and 13.10.1987 were passed against him. By the



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first two orders, annual increments without cumulative effect were stopped and by the third order, his pay was reduced to the minimum time scale of pay for a period of twelve years with cumulative effect. He pleaded that he became aware of the orders in March, 1988 and as he has suffered a recurring loss, he filed a suit for declaration challenging the three orders and claimed consequential relief.

3. Upon being served, defendants filed a written statement contesting the suit. Various preliminary objections were taken. The suit was contested on merits and it was submitted that the orders were duly communicated to the plaintiff. Plaintiff re-asserted the claim by filing replication. Issues were framed and after the parties led evidence, trial Court by judgment and decree dated 05.05.1990 dismissed the suit. First appeal preferred by the plaintiff – respondent was accepted by learned Additional District Judge, Amritsar by judgment dated 24.04.1992. Judgment and decree passed by the Trial Court was set aside and suit was decreed. It is in this background that the defendants are in appeal before this Court.

4. State counsel has argued that the suit is barred by limitation in so far as the first two punishment orders are concerned. She submits that the third penal order was never given effect to. Counsel for the respondent has supported the judgment under challenge.

5. Although the State counsel has laid stress that the suit is barred by limitation as the first two punishment orders dated 13.09.1984 and 09.04.1985 had been passed more than three years prior to the institution of suit on 15.06.1988, but the argument raised by her does not



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cut any ice. The plaintiff has specifically pleaded in para No.11 of the plaint that he gained knowledge of the orders on 28.03.1988. In his ocular evidence, he has categorically stated that none of the three orders were served upon him. He has not been cross-examined on this aspect.

6. In *State of Punjab Versus Amar Singh Harika AIR 1966 SC 1313*, Supreme Court held that passing of an order of dismissal would not be effective unless it is published and communicated to the officer concerned. Relying on Rule 22 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, this Court in *Makhan Singh Versus State of Punjab, 2009 (4) RSJ 59* came to the conclusion that an order of punishment has to be communicated in accordance with the mandate of this Rule. A presumption that order has been conveyed could have arisen if the respondents had produced the dispatch register or registered AD receipts. However, in the instant case defendants – appellants chose not to lead any evidence at all. Therefore, the finding recorded by the First Appellate Court on the issue of limitation deserves to be upheld.

7. Examination of the punishment orders shows that both the orders are cryptic. The disciplinary authority has failed to assign any reason in support of the orders. Although no response filed by the plaintiff to the show-cause notice, but the punishing authority has failed to examine the allegations levelled against the plaintiff nor it has looked into the material adverse to the plaintiff. These orders have been passed on printed proformas, which establish non-application of mind. There is no illegality or infirmity in the judgment passed by the First Appellate



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Court, which deserves to be and is affirmed.

8. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.

23.05.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(SUVIR SEHGAL)
JUDGE