

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2120 of 1992 (O&M)

Date of Order:10.01.2024

Food Corporation of India

..Appellant

Versus

Vijay Kumar Bedi (Deceased) through LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S.Dhandi, Advocate
for the appellant.

Mr. Hanspuneet Singh Kehal, Advocate and
Ms. Shonika Walia, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. This regular second appeal has been filed by the defendants (Food Corporation of India (hereinafter referred to as the 'FCI') to assail the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the respondent's suit for grant of decree of declaration that the order dated 07.12.1982, terminating him from service is illegal, null and void which in appeal was affirmed by the appellate authority on 18.11.1986.

2. The services of respondent no.1 were terminated on account of his conviction in a murder case which in appeal was modified to the conviction under Section 325/323/34 IPC. The disciplinary authority vide order dated 07.12.1982, dismissed him from service. He filed a suit on 31.10.1986, which was allowed on 05.03.1991. The first appeal filed by the appellant was also dismissed by the learned Additional District Judge, Amritsar, on 08.06.1992. On 05.01.1993, this court directed that there shall

be stay on recovery of back wages during the pendency of the appeal, however, the reinstatement of the respondent was not stayed.

3. Pursuant thereto, the respondent was reinstated in service on 18.01.1993, and on attaining the age of superannuation, he retired from the service. He is reported to have died, now.

4. In these circumstances, the only remaining issue that requires adjudication is whether the appellant should be burdened with the back wages for a period of nearly 11 years.

5. A perusal of the file shows that the respondent was involved in a criminal case arising from a dispute which was not related to his employment. The alleged murder took place on 25.06.1981, whereas the FIR was registered on 06.07.1981. Thereafter, the respondent was arrested and convicted by the trial court on 20.05.1982. However, the High Court gave him the benefit of doubt in a murder case, however, convicted him under Section 325/323/34 IPC.

6. On the one hand, the learned counsel representing the appellant contends that the order passed by the authority was in accordance with the circular issued by the FCI on 28.12.1978. Whereas on the other hand, the learned counsel representing the respondent contends that the termination order is illegal and therefore, the respondent is entitled to all the benefits.

7. This court has considered the submissions of the learned counsel representing the parties and analyzed the arguments of the learned counsel representing the parties. The lower court record has also been examined.

8. The question of legality of the order passed on 07.12.1982, is not significant as of now, particularly when the respondent was reinstated in

service in the year 1993. In these circumstances, the important issue that requires consideration is with respect to the entitlement of the respondent of back wages for all this while. It may be noted here that the respondent did not work for FCI during all this while.

9. The principle of 'No work No Pay' can be invoked particularly when a criminal case was not related to his employment. Secondly the order passed by the High Court acquitting him from the charge under Section 302 IPC is based upon the benefit of doubt. The respondent cannot as a matter of right claim all the back wages particularly when the appellant passed the order on the basis of conviction of the respondent in a criminal case.

10. Keeping in view the aforesaid facts, the judgment passed by the courts below is modified. The legal representatives of the respondent shall continue to get the benefits which they are, at present, receiving.

11. Disposed of accordingly.

12. All the pending miscellaneous applications, if any, are also disposed of.

January 10, 2024

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO