

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

RSA-1007-1994 (O&M)
Decided on :13.02.2024

STATE OF PUNJAB AND ANOTHER

...Appellants

Versus

PRITAM SINGH

... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Rohit Ahuja, DAG, Punjab.

Mr. Shiv Kumar, Advocate;
Mr. Raman Kaplish, Advocate and
Mr. Lovedev Singh, Advocate
for the respondent.

HARSIMRAN SINGH SETHI , J. (Oral)

1. The present regular second appeal has been filed against the concurrent findings of the courts below by which the suit filed by the respondent-plaintiff was allowed.
2. Learned counsel for the appellants-State submits that the trial Court could not have gone into the validity of the enquiry proceedings, which were initiated against the respondent-plaintiff, by assuming the role of an Appellate Authority, which is barred keeping in view the settled principle of law whereas, in the present case as the Courts below have re-appreciated the evidence which had come before the enquiry officer during the departmental proceedings in order to hold the findings of the enquiry officer illegal so as to grant the benefit to the respondent-plaintiff by setting-aside the order of dismissal, which order was passed against the respondent-plaintiff in the year 1974. Hence, learned counsel for the appellants-State further submits that the said findings which have been recorded by the Courts below are required to be set-aside.
3. Learned counsel for the respondent-plaintiff on the other hand submits that the present regular second appeal was filed in the year 1994

and 32 years have elapsed since then and as there is no interim order, the judgment and decree of the court below has already been executed and the respondent-plaintiff was reinstated in service and was also promoted during his service career and he has retired as far back on 30.06.1996, now dismissing the petitioner from service at this stage, when he is 80 years old will be too harsh.

4. Upon this, learned counsel for the appellants has not been able to rebut that the judgment and decree passed by the Court below has already been complied with and after complying of the said judgment and decree, the respondent-plaintiff had retired from service about 28 years ago.

5. Keeping in view the facts and circumstances noted herein above, especially that the respondent-plaintiff has discharged the duties with the respondents-department and thereafter, he got retired from service and as of now, he will be in his late eighties, hence, as the respondent-plaintiff has got pensionary benefits after working with the department concerned, now accepting the appeal of the department so as to treat the respondent-plaintiff as dismissed employee will be too harsh so as to deny the pensionary benefits to the respondent-plaintiff. Keeping in view the change circumstances, no ground is made out for upsetting the findings recorded by the Courts below. The question of law raised in the present regular second appeal, is kept open to be decided in appropriate case.

6. Pending miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

13.02.2024

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

