



**RSA-1156-1994 &
RSA-1158-1995**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

211-1.

RSA-1156-1994

Date of decision:21.05.2024

KARNAIL SINGH

...APPELLANT

VS.

PUNJAB STATE ELECTRICITY BOARD, PATIALA AND ANR.

...RESPONDENTS

211-2.

RSA-1158-1995

JASBIR SINGH

...APPELLANT

VS.

PUNJAB STATE ELECTRICITY BOARD, PATIALA AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

**Present: Mr. Harinder Sharma, Advocate
for the appellant in both the cases.**

**Mr. H.S. Baidwan, Advocate
for the respondents in both the cases.**

SUVIR SEHGAL J. (ORAL)

1. This order shall dispose of both the above-noted appeals as they involve common questions of law and facts.

2. For the sake of convenience, facts are being taken from RSA-1156-1994.

3. Plaintiff-appellant is in second appeal before this Court challenging the concurrent finding recorded by both the Courts below.



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4. Pledged case of the plaintiff-appellant is that while he was working as LDC, he appeared in a departmental examination in June, 1989. On the allegation that he disrupted smooth conduct of the examination and raised slogans, he and his colleagues were served with a show cause notice dated 14.08.1989. Punishment of stoppage of two increments with future effect was imposed vide order dated 06.06.1990 without holding any departmental enquiry. By a separate order, plaintiff-appellant was debarred from appearing in the departmental examination, which he challenged before the High Court and it was set aside by order dated 07.09.1990 passed in CWP-12111-1989. He filed a civil suit challenging the imposition of punishment of stoppage of increments by filing a suit for declaration.

5. Upon notice, defendants filed a written statement, wherein it was submitted that instead of appearing in the examination, plaintiff raised provocative slogans. A show cause notice was issued to him and after following the procedure prescribed under the Punjab State Electricity Board Employees Punishment and Appeal Regulations, 1971, (for short “the Regulations”), a minor punishment was imposed upon him. Plaintiff did not file any replication and issues were framed on the pleadings of the parties. After they led evidence and were heard, Trial Court by judgment and decree dated 26.02.1993, dismissed the suit. Plaintiff remained unsuccessful in the first appeal, which was dismissed by the learned Additional District Judge, Faridkot on 23.08.1993, resulting in institution of the present appeal.



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6. I have heard counsel for the parties and considered their respective submissions.

7. In order to determine the nature of the punishment imposed upon the plaintiff-appellant, it is apt to notice and reproduce hereunder the relevant service regulation:-

“5. The following penalties may, for good and sufficient reasons, and as hereinafter provided, be imposed on an employee,namely:-

MINOR PENALTIES

- (i) censure;*
- (ii) withholding of his promotions;*
- (iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Board by negligence or breach of orders;*
- (iv) withholding of increments of pay without cumulative effect.*

MAJOR PENALTIES

- (v) withholding of increments of pay with cumulative effect or reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect postponing the future increments of his pay;*
- (vi) reduction to a lower time-scale of pay, grade, post or service, which shall ordinarily be a bar to the promotion of employee to the time-scale of pay, grade, post or service, from which he was reduced, with or without further directions regarding*



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conditions of restoration to the grade or post or service from which the employee was reduced and his seniority and pay on such restorations to that grade, post or service;

(vii) compulsory retirement;

(viii) removal from service which shall not be a disqualification for future employment under the Board:

(ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Board.

Explanation xxxxx”

8. A perusal of the above reproduction shows that the penalty of withholding increments with cumulative effect has been described as a major penalty. Procedure for imposing major penalties has been laid down in Regulations 8 and 9, which provides that after serving a show cause notice upon the delinquent employee and considering his reply, in case, it is not found to be satisfactory, departmental enquiry has to be conducted. Defendants/respondents have not resorted to this process and have straight away proceeded to impose a major penalty. The procedure adopted by the defendants is not in conformity with the regulations. On this score alone, the impugned punishment order cannot be sustained.

9. In **Kulwant Singh Versus State of Punjab 1991 Supp. (1) SCC 504**, while interpreting the Punjab Civil Service (Punishment and Appeal) Rules, 1970, Supreme Court has held that the stoppage of annual increments with cumulative effect is a major penalty and the same cannot be imposed without holding departmental proceedings. It is,

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therefore, evident that the judgments and decrees passed by both the Courts below are based on erroneous appreciation of the service regulations and deserve to be set aside.

10. As a result of the foregoing discussion, judgments and decrees passed by both the Courts below are set aside and the suit filed by the plaintiff-appellant is decreed. Defendants-respondents are directed to disburse the arrears of pay etc. to the plaintiff-appellant within a period of four months from the date of communication of a copy of this order alongwith interest @ 6% p.a. from the date of withholding till the date of payment.

11. At this stage, counsel for the respondents has submitted that as the procedure prescribed under the regulation has not been followed, an opportunity should be given to the defendants to take the departmental proceedings to their logical end. This request cannot be acceded to. Litigation is pending for the last more than three decades. Plaintiff-appellant has served the respondents and retired from service on attaining the age of superannuation. This Court is of the view that no liberty deserves to be granted to the respondents.

12. Appeal is allowed.

13. Pending application(s), if any, are disposed of.

21.05.2024

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No