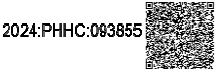


RSA-1479 of 2002



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1479 of 2002
Reserved on: 16.07.2024
Pronounced on: 24.07.2024

Balwant Singh
.....Appellant

Versus

Punjab State and others
.....Respondents

RSA-1487 of 2002

Punjab State and others
.....Appellants

Versus

Balwant Singh
.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Aakash Singla, Advocate, and
Ms. Mansi Ranga, Advocate,
for the appellant in RSA-1479 of 2002
and for the respondent in RSA-1487 of 2002.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J.

1. By this common order afore-mentioned two cross-Regular
Second Appeals are being disposed of as they arise from the same
judgments and decrees of the Courts below.

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2. For the sake of brevity, facts are being taken from RSA-1479 of 2002 – Balwant Singh v. Punjab State and others.

3. Parties to the *lis* are being referred to as per their status before the trial Court. Brief facts of the case are that plaintiff filed a suit for declaration pleading therein that on 05.09.1997, he joined as a regular J.B.T. teacher against a substantive post at GPS Gobindpura, Block Budhlada-II, District Mansa, and submitted duly filled in attestation form for the verification of his character antecedents on 01.12.1997. Before joining the service, he was falsely implicated in criminal case under Sections 323/324/326/307/148 read with Section 149 of the Indian penal code, vide FIR No.42 dated 23rd March, 1996 at Police Station, Dhuri, in connection with a private dispute, in which he was on bail. The Senior Superintendent of Police, Sangrur, vide No.167/R dated 30th March, 1998 submitted character antecedents report of the plaintiff to the District Magistrate, Sangrur, who further forwarded the same to the defendants, containing that the plaintiff never took part in any subversive activities, however, a criminal case was found registered against him alongwith others, which was pending in the Court and hence, he is not recommended for Government service. On receipt of C.I.D. report No.201/CDA dated 11th May, 1996, the District Education Officer, Mansa, terminated the services of the plaintiff w.e.f. 15th June, 1998 and he was relieved on 16th June, 1998, forenoon by the B.P.E.O. Budhlada-II at Bareta. Feeling aggrieved, the plaintiff filed an appeal before the D.P.I. (Primary), Punjab, Chandigarh on 24th June, 1998, which was rejected



mechanically and without application of mind. The second appeal of the plaintiff was also rejected vide order dated 10th May, 1999, on the ground that there was no such provision for second appeal. Thus, the plaintiff filed suit for declaration to the effect that the order dated 15.06.1998, terminating the services of the plaintiff, without holding a regular enquiry, and the order 09.11.1998, rejecting the appeal of the plaintiff, are illegal, malafide, arbitrary, discriminatory, ultra vires, against Punjab Civil Services (Punishment and Appeal) Rules and principles of natural and that the plaintiff is entitled to be deemed in service w.e. f. 15.06.1998, with consequential benefits and for direction to the defendants to restore the services of the plaintiff by reinstating him, by setting aside the impugned orders, with consequential benefits with interest at the rate of 18% per annum on the delayed payments. Defendants contested the suit. The trial Court vide judgment and decree dated 20.03.2001 dismissed the suit of the plaintiff. Aggrieved against the judgment and decree of the trial Court, plaintiff preferred an appeal, which was partly allowed by the lower appellate Court, vide judgment and decree dated 18.12.2001 and passed a decree for declaration to the effect that order dated 15.06.1998, relying on the CID report, passed by the District Education Officer (Primary), Mansa, terminating the services of the plaintiff, without holding a regular enquiry and order dated 09.11.1998, rejecting the appeal of the plaintiff were illegal, malafide, arbitrary, discriminatory, ultra vires, against the Punjab Civil Services (Punishment and Appeal) Rules, 1970 and principles of natural justice and he was held entitled to be deemed to be

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in service w.e.f. 15.06.1998, with consequential benefits, except back wages for the period from 15.06.1998 to 24.05.2000, the date of his reinstatement in service.

4. By way of RSA-1479 of 2002, plaintiff has challenged the judgment and decree of the lower appellate Court to the extent denying him the relief of backwages and the defendants-State have filed RSA-1487 of 2002 against the judgment and decree of the lower appellate Court whereby appeal of the plaintiff was partly accepted.

5. Learned counsel for plaintiff-Balwant Singh contended that judgment and decree of the lower appellate Court in decreeing the suit of the plaintiff that the order dated 15.06.1998, terminating the service of the plaintiff and order dated 09.11.1998, rejecting the appeal of the plaintiff by the Department, and declaring the same illegal, is perfectly valid and legal. He submitted that plaintiff has retired from service on 31.05.2024 and he does not challenge the finding of the lower appellate Court declining the prayer for grant of back-wages.

6. *Per contra*, learned State counsel contended that the lower appellate Court has wrongly reversed the well-reasoned judgment of the trial Court. He contended that the lower appellate Court has failed to appreciate that plaintiff was on probation and as per terms and conditions of his appointment his services could be terminated at any time without any notice, if he failed to fulfil the same as per condition Nos.8 and 13 of the appointment letter. As per police verification his antecedents were not found good, therefore, his services were rightly



terminated by the department and the lower appellate Court has set aside the order dated 15.06.1998 without application of judicious mind.

7. I have heard learned counsel for the parties and perused the record.

8. Plaintiff was appointed as JBT teacher on 05.09.1997. However, on the basis of police verification report that an FIR was pending against him, his services were terminated vide order dated 15.06.1998. Appeal preferred by the plaintiff was also rejected vide order dated 09.11.1998. He was acquitted in the criminal case vide judgment dated 21.01.2000 against which no appeal was filed. Thereafter plaintiff was issued fresh appointment letter dated 17.08.2000 (Ex.P23) and he joined the service on 25.08.2000. The lower appellate Court has rightly observed that it was not appropriate for the appointing authority to straightway pass the termination order of the plaintiff merely on the basis of the report by the police that a case was pending against him. An opportunity of hearing ought to have been afforded to the plaintiff before terminating his services. The principles of natural justice have not been adhered to. The judgment and decree of the lower appellate Court setting aside the termination order of the plaintiff and holding him entitled to be deemed in service w.e.f. 15.06.1998, is perfectly legal and valid and no interference is called for.

9. Learned counsels have failed to show that the findings recorded by the lower appellate Courts are perverse or based on



misreading, non-reading or mis-appreciation of the material evidence on record.

10. In view of above, no question of law, muchless substantial question of law has been raised or arises for consideration in the present appeals. No other point has been urged.

11. Dismissed.

12. Pending application(s), if any, stand disposed of accordingly.

24.07.2024
R.S.

(NAMIT KUMAR)
JUDGE

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