

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

107

RSA-1879-1996

Date of Decision:12.01.2024

State of Punjab and another

... Appellants

Vs

Jeet Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Niharika Sharma, AAG, Punjab.

None for the respondent.

SUVIR SEHGAL, J.(ORAL)

1. The substantial question of law which arises for consideration in this second appeal is:

“Whether major penalty of stoppage of increment with cumulative effect can be imposed without following the procedure laid down under Rule 8 and 9 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short “1970 Rules”).”

2. The State-defendant is in second appeal before this Court challenging the concurrent finding of fact recorded by both the courts below.

3. Facts, in brief, may be noticed. In the year 1982-83, wheat crop of the farmers was badly effected due to unseasonal rain and in order to give relief to them, Government decided to purchase their crop. The purchased wheat was stored at P.R. Centre, Sunam, where the plaintiff-respondent was posted as Sub-Inspector, Food and

Supplies. During inspection, misappropriation of 548 quintals 92 Kg of wheat was found and finding the plaintiff-respondent and other staff responsible, a show cause notice was issued to him. Plaintiff-respondent submitted his reply to the notice. However, vide order dated 05.12.1990, the Director, Food and Supplies imposed a major penalty of stoppage of two annual increments with cumulative effect and also ordered recovery of Rs.9529-69. Statutory appeal filed by the plaintiff-respondent was rejected vide order dated 02.07.1991. Challenging both the orders, plaintiff-respondent filed a civil suit for declaration to the effect that they are illegal.

4. Upon notice, State-defendant filed its written statement taking a stand that proceedings were initiated against the plaintiff-respondent under Rule 10 of the 1970 Rules and after considering his reply and following the principles of natural justice, punishment order was passed which was upheld by the appellate authority. It was stated that the plaintiff-respondent was negligent in the storing of the wheat, resulting in the loss to the State.

5. After the parties led evidence, the trial court passed a decree to the effect that both orders are illegal and that the plaintiff-respondent is entitled to regular pay and allowances. Liberty was also granted to the defendant-State to initiate disciplinary proceedings against the plaintiff-respondent by following the due process of law. Appeal preferred by the defendant-State was dismissed by the lower appellate Court and the findings were affirmed.

6. State counsel has been heard and record has been perused with her able assistance.

7. Rule 5 of 1970 Rules provides the penalties to be imposed on a delinquent employee. As per Rule 5(5) withholding of increments of pay with cumulative effect has been described to be a major penalty. Procedure for imposing of major penalty has been laid down in Rule 8, which *inter alia* provides that no order imposing any of the major penalties can be passed except after an inquiry held in the manner provided in the Rules 8 and 9 thereof. This Rule requires the serving of a show cause notice along with the charges with an opportunity to the delinquent employee to give his stand and affording an opportunity to the parties to present their case. There is nothing on the record to show that procedure under Rule 8 or 9 *ibid* has been followed. In the absence of any material, this Court is of the view that the mandate of 1970 Rules has been ignored by the departmental authorities.

8. In view of the above position, the substantial question of law framed by this Court is answered against the State-appellant and in favour of the plaintiff-respondent. As a consequence of the above, this Court does not find any infirmity in the judgments and decrees passed by the courts below. There is no merit in the appeal, which is hereby dismissed with no order as to costs.

12.01.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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