

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201

RSA-3395-1997

Date of decision:26.02.2024

THE PUNJAB STATE & ORS.

... APPELLANTS

VS.

VARINDER SINGH

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Anil Bansal, DAG, Punjab,
for the appellants.

Mr. J.S. Dadwal, Advocate for the respondent.

SUVIR SEHGAL J. (ORAL)

1. State-defendant is in second appeal before this Court challenging the judgment and decree dated 16.05.1997 passed by the First Appellate Court.

2. Facts, in brief, may be noticed.

3. Plaintiff-respondent filed a suit for declaration to the effect that order dated 27.04.1992, whereby three future increments were stopped, appellate order dated 24.09.1992 and revisional order dated 22.12.1992 are illegal null and void and for consequential relief.

4. Plaintiff-respondent joined as a Constable with PAP on 01.12.1989 and was inducted in the 36th Battalion, PAP as full-fledged Constable. He was selected and posted in the Ist Commando Battalion in October, 1990, and after completion of training, transferred to another Battalion in July, 1991. On 06.04.1991, he and his colleagues left their post alongwith their weapons and returned after a few minutes. On

account of their absence, departmental proceedings were initiated against them, which culminated in the passing of the impugned orders.

5. Upon notice of the suit, State-defendants filed a written statement taking various preliminary objections as well as contesting it on merits. Plaintiff filed a replication controverting the written statement. On the basis of the pleadings, issues were framed and after the parties led evidence, Trial Court by judgment and decree dated 15.03.1995, dismissed the suit. First appeal preferred by the plaintiff-respondent was accepted, findings recorded by the Trial Court were reversed and the suit was decreed. This has resulted in the instant second appeal at the hands of the State-defendants.

6. I have heard counsel for the parties and considered their respective submissions as also examined the record with their able assistance.

7. First Appellate Court has accepted the appeal on two grounds, both of which cannot be sustained. Learned Additional District Judge, has come to the conclusion that there were similar allegations against the co-workers of the plaintiff-respondent, but no punishment was imposed upon them and to maintain parity between the parties, the punishment order passed against the plaintiff-respondent deserves to be set aside. The finding recorded by the learned Additional District Judge is not supported with any evidence on record. During the course of the inquiry, as is apparent from the inquiry proceedings, Ex.P/5, plaintiff-respondent had admitted his guilt before the Enquiry Officer. There is nothing to show as to whether his colleagues had also made such an admission and were let off by the State-defendant. Secondly, the learned Additional

District Judge has come to the conclusion that the punishment imposed upon the plaintiff-respondent is not commensurate with the allegation levelled against him. It is a settled position in law that the Courts cannot interfere with the quantum of punishment and the imposition of punishment falls within the domain of the departmental authorities. Reference in this regard may be made to Union of India Versus Narain Singh (2002) 5 SCC 11 and Regional Manager, Rajasthan State Road Transport Corporation Versus Sohan Lal (2004) 8 SCC 218.

8. In view of the above, this Court is of the view that as the learned First Appellate Court has neither examined the impact of the admission of guilt made by plaintiff-respondent nor returned any findings on it, the impugned judgment and decree cannot be sustained and the matter would require fresh adjudication.
9. For the afore-going reasons, appeal is disposed of. Judgment and decree passed by the Lower Appellate Court is set aside and the matter is remitted to the learned District Judge, Jalandhar, to decide it afresh after giving the parties an opportunity to address arguments. Learned District Judge may hear the matter himself or may assign it to any Court of Competent jurisdiction.
10. Parties are directed to appear before the learned District Judge, Jalandhar on 08.04.2024.
11. Pending application(s), if any, shall stand disposed of.

26.02.2024
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(SUVIR SEHGAL)
JUDGE

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