

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

RSA-709-1997
Date of decision : 07.03.2024

Bali RamAppellant

V/S

Haryana State Electricity Board and othersRespondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. B.B. Sharma, Advocate for the appellant.
Mr. Padamkant Dwivedi, Advocate for the respondent.

NAMIT KUMAR, J. (ORAL)

1. Learned counsel for the respondents has filed his power of attorney in the Court which is taken on record.
2. The appellant/plaintiff has filed the instant appeal against judgment and decree dated 18.10.1996, whereby learned Additional District Judge, Karnal, while allowing the appeal filed by the respondent/defendant, has set aside the judgment and decree dated 02.09.1994, passed by learned Sub Judge Ist Class, Karnal, whereby suit filed by the appellant/plaintiff was decreed in his favour.
3. Brief facts of the case are that the appellant/plaintiff filed a suit before learned Sub Judge Ist Class, Karnal, impugning the action of the respondent/defendant in making recovery of Rs.9600/- from his pay without issuing any show cause notice or granting an opportunity of personal hearing. Vide judgment and decree dated 02.09.1994, the said suit was decreed in favour of the appellant/plaintiff by holding the action of the respondent/defendant as illegal on the ground that no show

RSA-709-1997 2

cause notice was issued before effecting the said recovery. The judgment and decree dated 02.09.1994, passed by the Trial Court was challenged by the respondent/defendant by filing an appeal which was allowed vide judgment and decree dated 18.10.1996 passed by learned Additional District Judge, Karnal and the judgment and decree passed by the Trial Court has been set aside. Aggrieved against the judgment and decree dated 18.10.1996 passed by the lower Appellate Court, the appellant/plaintiff has filed the instant regular second appeal.

4. During the course of hearing, it has been brought to the notice of the Court that during the pendency of the present appeal, the appellant/plaintiff has already retired from service.

5. Since while effecting recovery of Rs.9600/- from the pay of the appellant/plaintiff, neither any show cause notice was issued nor an opportunity of personal hearing was granted to the appellant/plaintiff, therefore, the action of the respondent-department is not in conformity with the principles of natural justice and the settled law. The finding recorded by the Trial Court to that extent is upheld and in this view of the matter, the respondent-department is directed to refund the said amount to the appellant/plaintiff, within a period of two months from the date of receipt of certified copy of this order.

6. The present appeal is disposed of in the above terms.

07.03.2024 (NAMIT KUMAR)
kothiyal JUDGE

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