

effect. Departmental appeal filed by her, was dismissed on 23.04.1991.

Assailing both the orders, she filed a civil suit for declaration.

3. Upon notice, the suit was contested by the defendants, wherein besides raising various preliminary objections, it was submitted that as the plaintiff was a member of disciplined force, she had acted in violation of the Punjab Police Rules, 1934 (for short “the Rules”). It was submitted that sufficient opportunity was given to her to present her case and after complying with the principles of natural justice, punitive action was taken. Plaintiff filed a replication re-asserting the averments of the plaint. Issues were framed on the basis of the pleadings of the parties and after they led evidence, Trial Court by judgment and decree dated 12.04.1996, dismissed the suit. First appeal preferred by the plaintiff-respondent was accepted and both the orders under challenge were declared as illegal and ultra vires.

4. In the above backdrop, defendants have approached the Court by way of present appeal.

5. State counsel has urged that the First Appellate Court has erred in interfering with the judgment of the Trial Court as the punishment imposed upon the plaintiff was of stoppage of three increments, which was provided for under the Rules. He submits that the punitive action was taken against her after the charges were duly proved. On the other hand, Mr. Walia has opposed the appeal by submitting that the punishment is not provided for in the Rules. He has drawn strength from the judgment of the Supreme Court in **Chamba Singh Versus State of Punjab (1997) 11 SCC 452**. Still further, by relying upon **Chatrapal Versus The State of Uttar Pradesh and another**

2024 (1) SLJ 308, he has contended that sending a representation directly to a superior cannot by itself amount to misconduct attracting a harsh punishment order.

6. I have heard counsel for the parties and considered their submissions besides examining the record with their able assistance.

7. At the outset, punishment order dated 15.01.1990 deserves to be examined. A perusal thereof shows that although while serving a show cause notice, it was proposed that five years of approved service be forfeited, but after considering the response of the plaintiff-respondent, the punishing authority forfeited three years service with permanent effect, which will have an impact on her future annual increments. Appeal filed by the plaintiff-respondent against this order was rejected, by the Deputy Inspector General of Police, Patiala Range, by order dated 23.04.1991.

8. State counsel has attempted to justify the punishment order by relying upon Rule 16.5 of the Punjab Police Rules, 1934. This Rule came up for interpretation before the Supreme Court in **Chamba Singh's case (supra)**. It was held that there is no reference in the Rule to forfeiture of service. It is, therefore, clear that the punishment imposed upon the plaintiff-respondent does not flow from the Rules. This Court, therefore, does not find any infirmity in the judgment passed by the First Appellate Court. However, after having recording a finding that the rule does not provide for the punishment imposed, it was incumbent upon the Appellate Court to remand the matter to the authorities for passing of a fresh order. This has,

however, not been done. The impugned judgment and decree, therefore, deserves to be modified.

9. Accordingly, the judgment and decree under appeal is modified. Matter is remitted to the punishing authority to pass a fresh order after hearing the parties and considering the nature of allegations levelled against the plaintiff-respondent as well as the judgment of the Supreme Court in **Chatrapal’s case (supra)**. Punishing authority shall carry out the necessary exercise within a period of four months from the date of communication of a copy of this order.

10. Appeal is disposed of.

11. Pending application(s), if any, shall stand disposed of.

20.04.2024
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No