

CM-5953-C-2022 IN/AND RA-RS-33-2022 IN
RSA-4060-2019

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(247)

CM-5953-C-2022 IN/AND
RA-RS-33-2022 IN RSA-4060-2019
Date of decision:- 02.05.2024

The Director General, Food and Supplies Department, Haryana and
others ... Appellants

Versus

Roshan Lal Moudgil ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sharad Aggarwal, DAG, Haryana
for the applicants-appellants.

Mr. Shailender Singh Gill, Advocate
for the non-applicant/respondent.

SUVIR SEHGAL, J. (ORAL)

CM-5953-C-2022 IN RA-RS-33-2022

1. Prayer in the application filed under Section 5 of the Limitation Act, 1961 is for condonation of delay of 167 days in the filing of the review application.
2. Notice of the application was issued to the non-applicant/respondent, who appeared before this Court in July, 2023. However, no response has been filed to the application.
3. Heard counsel for the parties.
4. This Court has gone through the reasons assigned in the application and is satisfied with the same.
5. Application is allowed.
6. Delay of 167 days in the filing of the review application is condoned.

**CM-5953-C-2022 IN/AND RA-RS-33-2022 IN
RSA-4060-2019**

7. State counsel submits that the plaintiff-respondent had filed a suit for declaration to the effect that charge-sheet dated 26.02.2009 along with punishment order dated 28.10.2013 and subsequent orders, are illegal, null and void and had also sought a decree for permanent injunction restraining the defendants-appellants from effecting recovery of Rs.12,49,791/-. State counsel submits that after contest, the suit was dismissed by the Trial Court. However, in first appeal filed by the plaintiff-respondent, the suit was decreed and punishment order and subsequent orders were set aside as the Appellate Court found that personal hearing had been given to the plaintiff-respondent before passing of the punishment order by an official, who was transferred and the punishment order was passed by the successor. State counsel submits that the State remained unsuccessful in the second appeal, which was dismissed by this Court vide order dated 30.08.2019. State counsel submits that the punishment order has been passed pursuant to the report submitted in an enquiry and in the absence of any liberty to the defendants-State, the disciplinary proceeding is inconclusive and permission be granted to conclude it.

8. Prayer in the review application has been opposed and counsel for the plaintiff-respondent submits that the respondent has retired from service in the year 2009 and his pensionary benefits have not being released.

9. I have heard counsel for the parties and considered their respective submissions.

10. Once the Court comes to a conclusion that the punishment order deserves to be set aside on account of breach of principles of natural justice,

**CM-5953-C-2022 IN/AND RA-RS-33-2022 IN
RSA-4060-2019**

permission deserves to be granted to the departmental authorities to take the disciplinary proceeding to its logical end. Therefore, prayer made by the State counsel deserves to be accepted.

11. Accordingly, review application is disposed of. Liberty is granted to the defendants-appellants to pass a fresh order, after hearing the plaintiff-respondent and to conclude the enquiry proceedings. While passing order afresh, departmental authorities would keep in view the fact that the plaintiff-respondent has, in the meanwhile, retired from service on attaining the age of superannuation. Needful be done within a period of four months from the date of communication of a copy of this order.

12. Judgment dated 30.08.2019 passed by this Court is modified accordingly.

**(SUVIR SEHGAL)
JUDGE**

02.05.2024
Kamal

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