

RSA-3784-2008 (O&M);
RSA-365-2010(O&M);
RSA-519-2010 (O&M); and
RSA-1297-2011(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) RSA-3784-2008 (O&M)

The Punjab State and others

...Appellants

Versus

Bhupinder Singh, Constable

...Respondent

(2) RSA-365-2010(O&M)

The State of Punjab and others

...Appellants

Versus

Inspector Jarnail Singh

...Respondent

(3) RSA-519-2010 (O&M)

The State of Punjab and others

...Appellants

Versus

Head Constable Satnam Singh (since deceased) through legal
representative

...Respondent

(4) RSA-1297-2011(O&M)

The Punjab State and others

...Appellants

Versus

Surinder Singh

...Respondent

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Date of decision:-10.04.2024

CORAM: HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr.Anil Bansal, DAG, Punjab
for the appellant (s) in all appeals.

Ms.Dhamanpreet Kaur, Advocate for
Mr.B.S. Bhalla, Advocate
for the respondent in **RSA-3784-2008**.

None for the respondent (s) in **RSA-365-2010** and
RSA-519-2010.

Respondent proceeded against ex-parte vide
order dated 21.07.2011 in **RSA-1297-2011**.

SUVIR SEHGAL, J.(ORAL)

**CM-1471-2010 in
RSA-519-2010 &
CM-1031-2010 in
RSA-365-2010**

For the reasons given in the applications, they are allowed.

Delay in filing of the appeals is condoned.

MAIN APPEALS

1. This order shall dispose of all the four above-noted appeals as they involve common questions of law and fact. For the sake of convenience, factual position is being taken from **RSA-3784-2008**.
2. Defendants are in second appeal before this Court challenging the concurrent findings recorded by both the Courts below.
3. Brief facts may be noticed. Plaintiff – Bhupinder Singh, who was working as a Constable filed a civil suit pleading that disciplinary

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proceedings were initiated against him on the allegation that he remained absent from duty for about five months. A departmental inquiry was held and on the basis of its findings, he was issued a show-cause notice, to which he submitted a reply and by order dated 26.11.2002 punishment of forfeiture of two years approved service with permanent effect for the purpose of increment was imposed. Departmental appeal and revision were rejected vide orders dated 05.07.2003 and 24.12.2003. Challenging these orders, he filed a civil suit for declaration and consequential relief. Upon notice, suit was contested by the defendants by filing a written statement wherein it was submitted that the plaintiff remained absent from duty from 01.10.2000 to 01.03.2001. Charges were proved in the departmental inquiry. Although plaintiff had committed grave misconduct, lenient view was taken and lighter punishment was imposed. On the basis of the pleadings of the parties, issues were framed and after they led evidence, the trial Court by judgment and decree dated 17.10.2006 decreed the suit. First appeal filed by the defendants was rejected by the learned Additional District Judge, Amritsar by judgment dated 26.03.2008, resulting in the institution of the present appeal by the defendants.

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

5. The trial Court has placed reliance upon a judgment passed

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by a Co-ordinate Bench of this Court in **Punjab State Versus Joginder Singh, 1992 (3) SCT 671** while decreeing the suit. The judgment has been set aside by a Division Bench of this Court vide judgment passed in CWP-19730-2004 titled as **Ranjit Singh Versus State of Punjab and others** decided on 14.09.2006, wherein after noticing Rule 16.5 of Punjab Police Rules, 1934, a Division Bench has held that it is open to the punishing authority to forfeit approved service for the purpose of increments. While rejecting the argument of the petitioner, the Division Bench held as under:

“In view of the above, it is not possible for us to accept, that the punishment imposed on the petitioner, does not flow from the provisions of the 1934 Rules. It is, therefore, not possible for us to accept the sole contention of the learned counsel for the petitioner.

While dismissing the instant writ petition, it will also be appropriate for us to set aside the order rendered by this Court in State of Punjab Vs. Joginder Singh, 1992(3) Service Cases Today, 671, wherein the relevant statutory provisions were not brought to the notice of this Court when the matter was adjudicated. Ordered accordingly.”

6. From the above, it is clear that the punishment imposed upon the plaintiff – respondent meets the mandate of the rules and the judgments and decrees passed by both the Courts below are based on incorrect interpretation of the applicable rules.

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7. As a result of the above discussion, the appeals are allowed. Judgments and decrees passed by the Courts below are set aside and the suit filed by the plaintiff - respondent is dismissed throughout with no order as to costs.

8. Miscellaneous application (s), if any, stand disposed of.

9. A photocopy of this order be placed on the connected appeals.

10.04.2024
Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No