



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No. 2092 of 2024(O&M)
Date of Decision:05.09.2024

Hira Lal Karkara

.....Appellant

Versus

State of Punjab and others

..... Respondents

AND

LPA No. 2140 of 2024 (O&M)

Gauri Shankar

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Saurabh Bajaj, Advocate
for appellant(s) (in both appeals).

Mr. R.S.Pandher, Sr. DAG., Punjab.

LISA GILL, J.

1. LPA Nos.2092 and 2140 of 2024, are taken up together for consideration and adjudication together at request and with consent of learned counsel for the parties. Both appeals arise from impugned common order dated

04.04.2024, passed in CWP No. 2003 of 2019, CWP No. 19839 of 2018 and two other connected writ petitions.

2. Brief facts necessary for adjudication of the matter are that appellant-writ-petitioner Hira Lal was initially appointed as Clerk and appellant-Gauri Shankar as Sewadar in Municipal Council, Abohar. During course of their service, order dated 24.03.2004 was passed against them as well as 16 other employees to the extent that they had failed to deposit the money collected from the Chungi (Octroi) Check Posts in question on 09.02.2004 and 10.02.2004. As per Resolution no. 50, Annexure P-2, passed by Municipal Council, Abohar, two annual increments of appellant(s) were stopped. This order passed on 24.03.2004 was sought to be challenged by present appellant(s) in their respective writ petitions filed in August and November 2018.

3. Learned Single Bench, vide detailed order dated 04.04.2024, dismissed both the writ petitions along with two others on the ground of delay and laches.

4. Aggrieved therefrom, present appeals have been filed.

5. Learned counsel for appellant (s) vehemently argues that grave error has occurred inasmuch as there is no question of delay coming to the fore in the present cases as it is a recurring cause of action available to appellant (s) whose two annual increments were stopped with cumulative effect. Major penalty had been imposed upon them *de hors* the provisions of law inasmuch as no notice was issued nor enquiry conducted. Therefore, there is complete violation of applicable provisions, specifically Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules, 1970. Learned counsel for appellant(s) relies upon Single Bench judgments of this Court in **Punjab State Power Corporation Limited Vs. Santokh Singh, RSA No. 1025 of 2022, decided on 13.04.2023, Paramjit Kaur and another Vs. State of Punjab and another, CWP no. 2301 of 2014, decided**

on **18.11.2014** and judgment of Division Bench of Patna High Court in **Awadhesh Kumar Dubey Vs. The State of Bihar, LPA No. 1283 of 2016, decided on 30.08.2017**. It is thus prayed that both the appeals be allowed. Impugned order dated 04.04.2024 be set aside and writ petitions filed by appellant(s)-writ petitioners be allowed as prayed for.

6. Learned counsel for respondent-State (on advance notice) has opposed the appeals while submitting that impugned order dated 04.04.2024 has been correctly passed by learned Single Bench. It is thus prayed that both the appeals be dismissed.

7. We have heard learned counsel for the parties and have gone through the files with their able assistance.

8. It is a matter of record that punishment in question regarding stoppage of two annual increments with permanent effect was imposed way back on 24.03.2004. This order was admittedly never challenged by appellants for about fifteen years. Learned counsel for appellants vehemently argued that appellants had served legal notice(s) dated 12.05.2018. In the interregnum, no steps had been taken by them to challenge the said order of punishment.

9. Perusal of file files reveals that various grounds have been raised to challenge order/resolution dated 24.03.2004 including the grounds that it is *de hors* the applicable Punjab Civil Services (Punishment and Appeal) Rules, 1970. Mandate of Rule 8 thereof, it is alleged has not been followed.

10. Learned counsel for appellants vehemently argued that as the appellants were still in service at the time of filing of the writ petition, a recurring loss was being caused to the appellants by virtue of operation of the impugned order, therefore, delay cannot be a factor against the appellants.

11. In our considered opinion, this argument is devoid of any merit for the reason that challenge in the writ petitions is to order imposing punishment of

withholding the increment(s) in question. The fact that imposition of this punishment has a cascading effect cannot turn the cause of action i.e., of challenging the order of punishment to be a recurring one. Therefore, the factum of appellants challenging the order while in service is not the deciding factor coming to their aid. Judgments relied upon by learned counsel for appellants are of no avail to appellants. Question involved in case of **Punjab State Power Corporation Limited Vs. Santokh Singh (supra)**, a decision rendered by a Single Bench of this Court was whether upon acquittal by Competent Court of law, arrears of pay for the period the employee remained out of service as well as arrears of pension need be withheld or not. Order of dismissal from service in that case had been passed after conviction of the employee in that case. Learned Civil Court directed that as the very basis of conviction no longer existed, order of dismissal was set aside along with all consequential benefits including arrears of salary etc. In these circumstances, it was held that no valid justification was available with the department for withholding pensionary benefits to the employee. The said decision does not have any application to the present case.

12. Division Bench of Patna High Court in **Awadhesh Kumar Vs. State of Bihar (Supra)** was considering the question of correction in the pay scales. It was not the case of an order of punishment being passed against the employee. Single Bench of this High Court in **Paramjit Kaur Vs. State of Punjab (Supra)** is in respect to a controversy regarding a recruitment process.

13. Learned counsel for the appellants is unable to point out any illegality, infirmity or perversity in the impugned order dated 04.04.2024, which calls for interference by this Court.

14. No other argument has been addressed.

15. There is a delay of 116 in filing of LPA No. 2092 of 2024 and 119 days in filing of LPA No. 2140 of 2024. As the same has been adjudicated upon

on merits, decision on the applications for condonation of delay is rendered academic. Applications are disposed of accordingly.

16. Keeping in view the facts and circumstances as above, both the appeals are dismissed being devoid of any merit. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

September 05, 2024.

s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.

(SUKHVINDER KAUR)
JUDGE