



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101) CM-5417-C-2024 in/and
RSA-1651-2015 (O&M)
Date of Decision : 21.05.2024

Mahesh Kumar ...Appellant

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mukesh Yadav, Advocate for the appellant.

Mr. Harish Nain, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-5417-C-2024

Present application has been filed for recalling the order dated 05.04.2024, by which, the present appeal was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Harish Nain, Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which is duly supported by an affidavit, the same is allowed. The order dated 05.04.2024 is recalled and the appeal is restored to its original number and status.



CM-4591-C-2015

Present application has been filed for seeking condonation of delay of 04 days in filing the appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and delay of 04 days in filing the appeal is condoned.

RSA-1651-2015

1. In the present appeal, the challenge is to the judgments and decrees of the courts below by which the suit filed by the appellant-plaintiff challenging the order of punishment imposed upon him vide order dated 10.06.2004 passed by Superintendent of Police, Narnaul, has been dismissed by the trial court vide order dated 15.01.2013, which judgment has been upheld by the lower appellate court vide judgment and decree dated 14.08.2014.

2. Learned counsel for the appellant-plaintiff submits that the appellant-plaintiff can only be treated as negligent as no loss has been caused by him and hence stopping of two increments with cumulative effect is a punishment which is disproportionate to the charges alleged against him and proved by the disciplinary authority.

3. Qua the said argument, it may be noticed that this court is not sitting in an appeal over the decision of the competent authority qua the order passed by the disciplinary authority. The only jurisdiction, as held by the trial court as well as by the lower appellate court, is to see as to



whether, the process envisaged under the rule has been followed while conducting the disciplinary proceedings or not and as per the concurrent findings recorded by the courts below, the procedure envisaged under the rules has been followed during the conduct of the departmental proceedings.

4. The argument raised by the appellant-plaintiff that the punishment is disproportionate to the charges alleged and proved against the appellant-plaintiff, cannot be accepted. The appellant-plaintiff was negligent in his duty which was to secure the items in the custody of the police and a Truck, which was impounded, has been taken away during the duty hours of the appellant-plaintiff. It may be further noticed that initially punishment of stoppage of five increments with cumulative effect was passed, which was modified by the appellate authority to two increments with cumulative effect, hence, the punishment has also been imposed with due case and by due application of mind, which needs no interference at the hands of this Court.

5. Keeping in view the fact that no perversity in the judgments and decrees of the courts below has been pointed out, no ground is made out for any interference by this court in the present regular second appeal.

6. Dismissed.

May 21, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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