

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

RSA-5379-2017 (O&M)
Date of Decision :05.04.2024

Jagbir Singh

...Appellant

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rahul Bhargava, Advocate for the appellant.

Mr. Sandeep Bhatia, Senior Panel Counsel-UOI.

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Harsimran Singh Sethi, J. (Oral)

1. In the present appeal, challenge is to the judgment and decree of the Courts below by which, suit filed by the appellant-plaintiff challenging the order dated 04.02.2003 passed by the respondents, whereby, appellant-plaintiff has been dismissed from service, has been rejected.

2. Learned counsel for the appellant argues that the appellant has been dismissed from service under section 11(1) of the Central Reserve Police Force Act, 1949 (in short, 'CRPF Act'), which only provides for minor punishment, which fact has been ignored by the Courts below while dealing with the punishment of dismissal from service, which has been imposed by the respondents vide order dated 04.02.2003 and hence, the judgment and decree of the Courts below are perverse to Section 11(1) of the CRPF Act and are liable to be set aside.

3. I have heard learned counsel for the parties and have gone

through the record with their able assistance.

4. The only question which has been raised in the present appeal is that as to whether judgment and decree of the Courts below are perverse to Section 11(1) of the CRPF Act or not.

5. The said question of law has already been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.1133-2016 titled as Union of India and others vs. Diler Singh decided on 30.06.2016** while interpreting Section 11(1) of the CRPF Act, 1949 holding that punishment of dismissal from service can be imposed under the said Section 11(1) of the 1949 Act. Relevant paragraph of the judgment is as under:-

“21.The aforesaid analysis reveals that the Division Bench has clearly held that the delinquent employee, being a member of the Force, could not have left the camp without prior permission. It has also opined when a personnel is posted in a camp, he is not free to move as per his choice even during the period when he is not on duty. However, as is manifest, the Division Bench has opined that the imposition of dismissal as a punishment, which is a major one, could not have been imposed by the disciplinary authority. The said opinion has been expressed without referring to the position of law that has been clearly laid down in the case of [Ghulam Mohd. Bhat](#) (supra). Thus, the basic premise is erroneous. In the impugned order, the writ court has, after reproducing the passage from [Akhilesh Kumar](#) (supra), opined that the controversy is covered by the judgment rendered by the High Court of Calcutta. It is extremely significant to note that the learned Single Judge has not even made an effort to appreciate the decision in [Ghulam Mohd. Bhat](#) (supra) though the same was relied upon by the learned first appellate Judge. Thrust of reasoning of the first appellate court was that a major punishment

of dismissal could be imposed in law. It is quite unfortunate that the High Court has dislodged the finding without any analysis but reproducing a passage from the Calcutta High Court which had not referred to the ratio **laid down by** a two-Judge Bench of this Court in Ghulam Mohd. Bhat’s case. Thus, the conclusion arrived at by the High Court is wholly unsustainable.”

6. Learned counsel for the appellant has not been able to dispute that the punishment of dismissal from service can be imposed by invoking Section 11(1) of the CRPF Act, 1949. That being so, it cannot be said that judgment and decree of the Courts below are perverse to Section 11(1) of the CRPF Act, 1949.
7. No other argument has been raised.
8. As learned counsel for the appellant has not been able to point out any perversity in the judgment and decree of the Courts below hence, the present regular second appeal is dismissed.
9. Civil Miscellaneous application pending, if any is also disposed of.

April 05, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No