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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA-2229-2001 (O&M)
Date of Decision: 08.05.2025**

State of Punjab

.....Appellant

Vs.

Raj Kumar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R.S.Pandher, Addl. Advocate General, Punjab,
for the appellant.

None for the respondent.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal is preferred by the State of Punjab against the judgment and decree dated 30.04.1999 passed by the learned Civil Judge (Junior Division), Jalandhar, whereby, a civil suit for declaration to the effect that the order dated 27.02.1997 passed by the Director, State Transport Department, Punjab, vide which two annual increments of the respondent were stopped without cumulative effect is illegal, wrong and cryptic and was decreed in favour of the respondent, as well as the judgment and decree dated 16.12.2000 passed by the learned Additional District Judge, Jalandhar, whereby, the appeal filed by the State of Punjab challenging the judgment and decree dated 30.04.1999 passed by the learned Civil Judge (Junior Division), Jalandhar, was dismissed and the said judgment and decree was



modified to the extent that the State of Punjab is not liable to pay any interest on the arrears of stoppage of alleged annual increments.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that the respondent joined the Punjab Transport Department in the year 1978 as Store Boy and was promoted as Assistant Store Keeper in the year 1979 and thereafter, as a Store Keeper in the year 1980. While the respondent was posted as a Store Keeper in the Punjab Roadways, Jalandhar Depot No.2, he was served with a show cause notice by the Director, State Transport, Punjab, vide Office Memo No.37527 dated 17.12.1992, on the allegation of causing loss to the Government/Department. The respondent submitted reply to the said show cause notice denying the allegations but the Director, State Transport, Punjab, dissatisfied with the reply to the show cause notice furnished by the respondent, passed the impugned order dated 27.12.1997 imposing the penalty of stoppage of two annual increments of the respondent without cumulative effect. Aggrieved against the impugned order dated 27.12.1997, respondent filed a civil suit, which was decreed in his favour vide judgment and decree dated 30.04.1999 passed by the learned Civil Judge (Junior Division), Jalandhar. The State of Punjab filed an appeal against the judgment and decree dated 30.04.1999 passed by the learned Civil Judge (Junior Division), Jalandhar. The learned Additional District Judge, Jalandhar, dismissed the appeal vide its judgment and decree dated 16.12.2000. Hence, the present regular second appeal.



3. Learned counsel for the appellant-State contends that the civil suit filed by the respondent was wrongly decreed and the appeal filed by the appellant-State was wrongly dismissed, since for imposing minor penalty, no opportunity of being heard is required, therefore, the penalty was imposed as per rules and in accordance with law.

4. Moreso, no liberty was granted to the appellant-State by both the Courts to proceed afresh against the respondent.

5. Despite service, none has put in appearance on behalf of the respondent. Hence, he is proceeded against *ex parte*. Since, the present Regular Second Appeal pertains to the year 2001, therefore, this Court has left with no other option, but to decide the case in the absence of the respondent.

6. I have heard learned counsel for the appellant and perused the whole record of this case.

7. Vide order dated 27.08.2012, following substantial questions of law were framed by this Court:-

- “1. *Whether personal hearing is required to be afforded before passing order imposing minor penalty?*
2. *Even if the order was held to be illegal, the appellant should have been afforded an opportunity to remove the affect and pass the order afresh?”*



8. This Court in ***B.D.Gupta Vs. State of Haryana, 1970(2) ILR Punjab 511*** held that personal hearing is not necessary before imposing a minor punishment, provided that the delinquent officer has been given a reasonable opportunity to make a representation. This condition is satisfied when the delinquent officer is supplied with a copy of the complaint in clear and unambiguous terms, detailing the allegations on which action is proposed and the delinquent officer submits a comprehensive reply addressing each of the charges mentioned in the complaint.

9. Hon'ble the Supreme Court in ***State of Punjab Vs. Nirmal Singh, (SC) 2007(10) JT 31*** held that personal hearing is required only when the disciplinary authority proposes to impose any major punishment and not in the case of minor punishment. The relevant portion of the said judgment is reproduced as under:-

“6. Rule 21 of the Punjab Civil Service (Punishment & Appeal) Rules, 1970 deals with the review. A perusal of the aforesaid rule shows that there is no provision of personal hearing in regard to inflicting minor penalties. The Rule contemplates a personal hearing only when the Disciplinary Authority proposes to impose any of the major penalties specified in clauses (v) to (ix) of Rule 5 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses. Admittedly, by an order dated 20.10.2003, the respondent was inflicted punishment of stoppage of two increments with cumulative effect, which is a minor punishment. The High Court, in our view, was clearly in error in setting aside the order dated 24.6.2004 passed by the



Competent Authority on the ground of violation of principles of natural justice. The High Court was also of the view that the order passed by the Competent Authority dated 24.6.2004 is not a speaking order. This finding of the High Court was not based on the material on record. We have gone through the order dated 24.6.2004 passed by the Competent Authority. In our view the order is supported with reasons.”

10. Therefore, in view of the law laid down by Hon’ble the Supreme Court for imposing minor penalty, which was imposed in the present case upon the respondent, opportunity of hearing is not contemplated in the rules. Therefore, the substantial questions of law are answered in favour of the appellant and against the respondent. Further the respondent was given every opportunity to file reply to the show cause notice and after considering the reply, order dated 27.12.1997 was passed by the Director, State Transport, Punjab, whereby, stoppage of two annual increments without cumulative effect was imposed.

11. Learned counsel for the appellant-State, on instructions from Sh. Manpreet Singh, Law Officer, office of the General Manager, Punjab Roadways, Jalandhar, apprised this Court that respondent-Raj Kumar had retired on 31.12.2011 and his all retiral benefits have already been released by the department.

12. This Regular Second Appeal pertains to the year 2001 and it is being decided almost after 24 years and the respondent had retired on



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31.12.2011 and as per instructions from Sh. Manpreet Singh, Law Officer, he has been granted all the retiral benefits.

13. Consequently, the present appeal is allowed and the judgment and decree dated 30.04.1999 passed by the learned Civil Judge (Junior Division), Jalandhar, as well as the judgment and decree dated 16.12.2000 passed by the learned Additional District Judge, Jalandhar, are set aside and civil suit of the plaintiff is dismissed.

14. Decree sheet be drawn.

15. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

08.05.2025

Virrendra

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No