

2025:PHHC:129584-DB



LPA-983-2017 (O&M)

Date of Decision: 17.09.2025

Union of India and others

..Appellants

Vs.

Jai Parkash Bhartiya

..Respondent

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Sourabh Goel, Sr. Standing Counsel for the appellants.

Mr. Rajesh Punj, Advocate and
Mr. Sarvesh Rattan, Advocate for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal arises out of an order passed by the learned Single Judge dated 08.12.2016, whereby the writ petition filed by the respondent – writ petitioner against order of his dismissal, has been allowed.
2. The appellate order and reviewing orders have also been set aside. The learned Single Judge has directed the employer to take a fresh decision with regard to imposition of punishment.
3. An observation has also been made that the imposition of penalty of removal from service could be substituted with an order of compulsory retirement. To this part of the impugned judgment, there is no challenge in the present appeal. In fact the appellant has already passed a fresh order on 27.01.2017, whereby the order of punishment of removal from service dated 19.12.2008, is converted into an order of compulsory

retirement. This order was also challenged in appeal which has already been dismissed.

4. The learned Single Judge in para No.8 of the impugned judgment has observed as under:-

*“The respondents are further directed to treat the intervening period from the date of removal from service till passing of fresh order as deemed to be under suspension in view of the decision of the Supreme Court in the case of **Managing Director, ECIL, Hyderabad vs. B. Karunakar 1993 (4) SCC 727**. The respondents are directed to pay subsistence allowance within a period of three months from today. Further regulate suspension period after passing fresh order. It was also directed that monetary benefits shall be worked out with reference to passing of fresh order and disburse financial benefits at the earliest.”*

5. Learned counsel for the appellant contends that the directions issued by the learned Single Judge are self-contradictory inasmuch as the liberty once was granted to the employer for converting the order of removal from service into an order imposing lesser punishment, there was no occasion for the learned Single Judge to rely upon the principle enunciated by the Hon’ble Supreme Court in the case of **B. Karunakar** (supra), to direct the payment of subsistence allowance till passing of the fresh order.

6. We have heard learned counsel for the parties.

7. We find substance in the contentions advanced on behalf of the appellant inasmuch the liberty granted by the learned Single Judge to consider substitution of punishment for removal from service into a lesser punishment once has been exercised, there was no requirement of issuing any further direction as is done in para No.8 of the impugned judgment. The

observation made in para No.8 would have been necessary where the employer had opted to conduct a fresh inquiry.

8. In such view of the matter, we modify the judgment of the learned Single Judge dated 08.12.2016 and observations contained in para No.8 of the impugned judgment are set aside. Since the order of removal from service has already been converted into an order of compulsory retirement, the appellant would now be required to calculate the arrears of pension due and payable from 19.12.2008 to 27.01.2017 and release the payment within a period of three months from today. The respondent shall appear before the Assistant Commandant, at Chandigarh, within a week and required formalities at the level of the respondent would be completed within a further period of one week thereafter.

9. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

17.09.2025

rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No