

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1846 of 1998 (O&M)

State of Haryana and another
.....Appellants

Versus

Amrik Singh (deceased) through LRs and another
.....Respondents

1.	Reserved on	:	18.02.2026
2.	Pronounced on	:	08.04.2026
3.	Uploaded on the website	:	09.04.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	:	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	:	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Priyavrat Parashar, AAG, Haryana,
for the appellants.

Mr. Inderjeet Singh, Advocate
for the respondents.

NAMIT KUMAR, J.

1. The appellants/defendants-State of Haryana are in Regular Second Appeal before this Court challenging the judgment and decree dated 14.08.1997, passed by learned First Appellate Court, whereby the appeal preferred by the respondents/plaintiff, has been accepted and the judgment and decree dated 21.11.1995, passed by learned Trial Court has been set aside and the suit of the respondents/plaintiff has been decreed.
2. Parties to the *lis* hereinafter shall be referred to by their original position before the learned Trial Court.
3. The brief facts of the case are that the plaintiff was posted

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as Constable at Police Station City, Panipat, in August, 1987 under the control of Superintendent of Police, Karnal at that time. It was alleged that he had developed illicit relations with the wife of Kala Singh, a resident of Ashok Nagar, Panipat, and had been visiting her house at odd hours without any official work, to which the residents of the locality objected but he did not put an end to his visitings. On a complaint, summary of allegations was supplied to him on 30.09.1988. Enquiry was conducted by the enquiry officer, who framed formal charges against the plaintiff, which were proved. Thereupon, the Superintendent of Police, Karnal, served a show-cause notice to him for the proposed punishment to which plaintiff submitted a reply. Thereafter, the plaintiff was dismissed from service, vide order dated 03.08.1988. Plaintiff filed an appeal against the order of his dismissal dated 03.08.1988, which was rejected vide order dated 30.09.1989, passed by DIG, Ambala Range and the revision petition filed by the plaintiff was also rejected by the Director General of Police, Haryana, vide order dated 23.07.1990. Consequently, the plaintiff filed a suit seeking declaration to the effect that the order of dismissal as well as the orders passed by the appellate authority and revisional authority are illegal, against the principles of natural justice and the rules governing the plaintiff and, therefore, liable to be set aside.

4. Upon notice, defendants contested the suit by filing written statement wherein allegations of the plaintiff were refuted. It was submitted that the plaintiff had been given due opportunity to defend himself; enquiry was held according to law after obtaining sanction

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from the District Magistrate under Rule 16.38 of the Punjab Police Rules and the dismissal of the plaintiff was in accordance with the rules.

5. Issues were framed on the basis of pleadings of the parties and after they led evidence and were heard, learned Trial Court, vide judgment and decree dated 21.11.1995, dismissed the suit filed by the plaintiff by recording a finding that there was no defect in the enquiry proceedings conducted against the plaintiff. It was held that the plaintiff had failed to prove that the defendant did commit any illegality and did not observe the principles of natural justice and further the Police Rules as applicable to the plaintiff before passing the impugned orders.

6. Thereafter, the legal representatives of the plaintiff preferred first appeal, which was accepted by the learned First Appellate Court, vide judgment and decree dated 14.08.1997, holding the legal representatives of the plaintiff entitled to all benefits which were permissible to the plaintiff with effect from the date of his dismissal till he was entitled to continue in service in ordinary course as well as the family pension due to the plaintiff according to the rules. Hence, the present Regular Second Appeal.

7. Learned State counsel, representing the appellants, has submitted that the judgment and decree passed by the First Appellate Court is totally perverse inasmuch as the act of the respondent/plaintiff constitutes the gravest act of misconduct. The First Appellate Court wrongly allowed the appeal of the plaintiff by taking into consideration

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Rule 16.2 of the Punjab Police Rules as the plaintiff nowhere mentioned about the length of his service in suit.

8. *Per contra*, learned counsel for the respondents while supporting the judgment and decree passed by the First Appellate Court, has contended that the order of dismissal was violative of the principles of natural justice as the same was passed without affording any opportunity of hearing to the deceased-plaintiff and was harsh and the First Appellate Court has given due regard to the length of service of the deceased plaintiff.

9. I have heard learned counsel for the parties and perused the record.

10. While admitting the appeal vide order dated 04.03.2003, the operation of the impugned judgment and decree was stayed and following substantial questions of law were framed: -

“xxx xxx xxx xxx xxx”

1. *Whether the order of dismissal passed by the punishing authority could be set aside by the learned District Judge in appeal merely on the ground that while passing the order of dismissal his length of service was not taken into consideration?*
2. *Whether the order of dismissal passed by the punishing authority could be set aside by the learned District Judge on the ground that the punishing authority had not considered as to whether the plaintiff was entitled to pension or not and if so, as to how much?*
3. *Whether the judgment passed by the learned District Judge is perverse and contrary to the evidence led by the parties and requires to be set*

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aside? ”

xxx xxx xxx xxx xxx

11. It is apposite to notice Rule 16.2(1) of the Rules, which is reproduced hereunder:-

“16.2 Dismissal – (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.

xxx xxx xxx xxx xxx”

12. A perusal of the rule above shows that it provides for dismissal from service for gravest acts of misconduct or as a cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. Under the former part of the provision, gravest acts of misconduct entail dismissal, whereas under its latter part, it is the cumulative effect of continued misconduct, which invites the punishment of dismissal. In both cases, incorrigibility of the delinquent official and complete unfitness for police service has to be established. Simultaneously, the punishing authority is required to take into consideration the length of service of the delinquent official as well as his claim to pension.

13. It is noteworthy that while allowing the first appeal preferred by the plaintiff-respondent, vide impugned judgement, the first appellate Court had not found it necessary to consider the other points argued/addressed by learned counsel for the appellant-department at that point of time and had considered only the law point involved in the appeal and the patent irregularity focussing the

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procedural *lacunas* in the departmental proceedings, which is a recorded fact, in the impugned judgement itself. The operative/concluding para of the impugned judgement dated 14.08.1997, is as under:-

“ In view of what has been noticed hereinabove, I do not think it necessary to discuss the other points argued and addressed by the learned counsel for the appellant because the appeal succeeds on a very important point of laws and a patent irregularity in the impugned order on the record. The result would be that the Legal Representatives would be entitled to all benefits which were permissible to the appellant Amrik Singh with effect from date of his dismissal till he was entitled to continue in service in ordinary course as well as the family pension due to the appellant according to rules, Consign. ”

Section 96 of the Code of Civil Procedure provides the substantive right to file a first appeal against an original decree passed by a civil court and allows for a full re-appreciation of both 'the facts as well as the law' and, therefore, the finding recorded by the first appellate court in the impugned judgment *qua* considering the law point only and not considering the other points argued/addressed by learned counsel for the appellant-department is not only perverse but is against the statutory provisions and, moreover, the impugned judgement is also bad in the eyes of law, since the same is silent upon the act and conduct of the plaintiff, who while being posted in a disciplined force is alleged to have committed a grave misconduct of moral turpitude.

13(a). Be that as it may, this Court has minutely examined the

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order of dismissal dated 03.08.1988, Ex.P12, which shows that there is ample and cogent evidence to prove the charges of grave misconduct involving moral turpitude against the plaintiff-Amrik Singh (deceased), which has also been corroborated by the independent witnesses of the locality and the official witnesses as well, especially the testimony of Lakhwinder Singh (PW-9), which shows that there had been other occasions also, when the plaintiff used to visit the house of the wife of Kala Singh in odd hours without any official work, which is a reported incident, when he was bolted inside the house of Kala Singh, by the inhabitants of the locality and ultimately took by the police and, therefore, this Court is of the considered opinion that the departmental enquiry was conducted after following the due procedure and strictly in accordance with the service Rules, 1934, and following principles of natural justice, since the plaintiff was afforded opportunity to lead his defence, and there was no procedural irregularity or *lacuna* in the disciplinary proceedings and in such circumstances, the disciplinary authority was fully justified in imposing the penalty of dismissal from service upon the plaintiff-Amrik Singh, since he was rightly held guilty of moral turpitude, as he had developed illicit relations with a lady and for the same reasons and findings, the appellate authority as well as the revisional authority did not find any fault with the order of dismissal of the plaintiff and the suit filed by the plaintiff was also rightly dismissed and, therefore, for the reasons recorded above, interference by the learned lower appellate Court is wholly unwarranted.

13 (b). So far as the question of law involved in this case is

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concerned, this Court is of the view that the First Appellate Court, while taking into consideration Rule 16.2 of the Punjab Police Rules, has wrongly allowed the appeal of the legal representatives of the plaintiff and held them entitled for the benefits, which were permissible to plaintiff-Amrik Singh with effect from the date of his dismissal till he was entitled to continue in service in ordinary course as well as the family pension due to the plaintiff, as it lost sight of the fact that there was no mention of date of appointment or length of service of the plaintiff anywhere i.e. either before the departmental authorities or in the suit filed by him and, therefore, in the absence of any service record *qua* length of service, application of Rule 16.2 of the Punjab Police Rules is not permissible in the case of the plaintiff-Amrik Singh and since he was dismissed from service on the basis of proved charges of moral turpitude, being in illicit relationship with a lady, he is not entitled to any service/pensionary benefits.

Even otherwise, the first appellate Court has erred in setting aside the order of dismissal and at the most the matter could have been remanded back to the disciplinary authority for compliance of provisions of Rule 16.2 of the Punjab Police Rules.

In view of the facts and circumstances coupled with the proposition of law enunciated above, the finding recorded by learned First Appellate Court is required to be reversed and that of learned Trial Court is liable to be maintained. Accordingly, the questions of law are answered in favour of the appellants and against the plaintiff.

14. For the reasons assigned hereinabove, the present appeal is

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allowed and the judgment and decree dated 14.08.1997, passed by learned First Appellate Court is hereby set aside and that of learned Trial Court is restored, and consequently the suit of the plaintiff stands dismissed with no order as to costs.

15. Pending applications, if any, stand disposed of.

08.04.2026
R.S./*mkkoundal*

(NAMIT KUMAR)
JUDGE

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