

(2009) 02 P&H CK 0014
In the Punjab And Haryana At Chandigarh

Kuldip Chand

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 11-02-2009

Acts Referred:

Citation : (2009) 02 P&H CK 0014

Hon'ble Judges : Vinod K.Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—This regular second appeal is directed against the judgments and decree dated 15.10.2003 and 28.3.2008 passed by the learned Courts below vide which the suit for declaration with consequential relief stands dismissed.

2. The learned Counsel for the appellant raised the following substantial question of law:

Whether the punishment awarded to the plaintiff/appellant amounted to double jeopardy inasmuch as the appellant was not paid salary for the suspension period after his reinstatement?

3. The plaintiff/appellant filed a suit for declaration to challenge the order dated 24.2.1999 vide which two annual increments of the appellant were ordered to be stopped without cumulative effect. The minor punishment was awarded to the appellant for the lapses for which he was tried after issuance of chargesheet.

4. The learned Courts below found no illegality in the order passed by holding that the civil Court cannot sit in appeal over the decision of the inquiry officer and punishing authority, unless it is arbitrary or in violation of statutory rules.

5. The learned Counsel for the appellant has challenged the concurrent finding of fact recorded by the learned Courts below only on the ground that punishment awarded amounts to double jeopardy, which could not be sustained in law.

6. The plea of the learned Counsel for the appellant cannot be accepted. Firstly that no such plea was raised before the learned Courts below nor any issue was framed.

7. Even otherwise, it cannot be said that merely because certain instructions from the Government have not been followed regarding payment during the suspension period, the punishment awarded would be hit by principle of double jeopardy, as contended. Once the punishment i.e. stoppage of two annual increments without cumulative effect has been imposed and that was the only order impugned in the civil suit.

8. The substantial question of law, framed does not arise in this appeal for consideration by this Court.

9. Dismissed.