
(2012) 01 P&H CK 0092
In the Punjab And Haryana At Chandigarh
Case No : R.S.A No. 3342 of 1987

State of Haryana and others

APPELLANT

Vs

Gajjan Singh Sangha

RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Citation : (2012) 01 P&H CK 0092

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Tewari, J.—This appeal has been filed against concurrent judgments of the Courts below setting aside the order dated 2.12.1983 terminating the services of the respondent, and decreeing his suit with all consequential benefits.

2. On 11.11.1988, the following interim order was passed :-

There are no grounds to stay the execution of the decree. However, the payment of the back wages shall remain stayed if the respondent is taken in service within fifteen days from today and further an undertaking is filed within two weeks that the back wages will be paid with interest at the rate of 12% per annum in the eventuality of appeal being dismissed. In case above terms are not complied with, the stay order shall stand vacated.

3. It is not disputed that thereafter, the respondent joined the service and has since retired.

4. Brief facts are that the respondent joined on 22.11.1966 and was suspended on 16.11.1970. Thereafter, charge-sheet was issued to him (the receipt of which has been denied by the respondent), and vide order dated 23.11.1983 the charge sheet was, however, withdrawn. Subsequently, vide order dated 2.12.1983, the services of the respondent were terminated. This order was challenged by the respondent vide the instant civil suit.

5. In defence, the plea taken was that the plaintiff/respondent was suspended on account of submission of forged relieving report as also LPC of Government High School, Tohana (Hisar) on his transfer from Government High School, Ding (Sirsa), and thereafter he never made any effort or application till the year 1982 and by the impugned order, his services were terminated ostensibly in terms of his appointment letter by giving him one month notice. Both the Courts found on fact that the termination order was not an innocuous order but was an order prompted by his misconduct. Consequently, both the Courts below, as mentioned above, held that this penal order could not be passed without holding any inquiry and giving benefit to the respondent of his entire service.

6. No question of law was proposed when this appeal was filed. Today, counsel for the appellants has argued that the only question of law which arises is whether a Civil Court can interfere in an innocuous order of termination.

7. In my considered opinion, this question of law does not arise in the present case. Both the Courts below found on fact that the order of termination was not an innocuous order but was an order which was based upon misconduct of the respondent. In the circumstances, no fault can be found with the concurrent judgments of the Courts below.

8. Counsel for the appellants has, however, raised a subsidiary question of law that in view of the fact that the respondent surfaced for the first time after 12 years i.e in 1982, he in any case is not entitled for the wages for the period he did not work on the principle of "no work no pay".

9. Counsel for the respondent has argued that once the order of termination of the services of the respondent was set aside, all consequential benefits would have to be given to him.

10. I am afraid, the argument raised by counsel for the respondent is too extreme. A perusal of the record does reveal that from 1970, the respondent was repeatedly asked to join but instead of joining he kept on writing letters praying for his transfer from one place to another. By letter dated 14.7.1980 (Ex.P9), the respondent informed the Director Education Haryana that he could not join duties because he was sick and his father had passed away and that he was ready to join duties provided he could be adjusted in any school near Bhiwani. In my opinion, this conduct of the respondent dis-entitles him for wages for the period he remained out of job. With this modification, the appeal is dismissed.

11. No costs.