

(2013) 08 P&H CK 0270

In the Punjab And Haryana At Chandigarh

Case No : CM No's. 8011-12-C of 2011 and CM No's. 6571-72-C of 2009 with
Regular Second Appeal No. 2196 of 2009

Uttar Haryana Bijli Vitran Nigam Ltd.

APPELLANT

Vs

S.K. Punia

RESPONDENT

Date of Decision : 19-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0270

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Advocate : Praveen Gupta, for the Appellant; J.K. Goel, for the Respondent

Judgement

Rakesh Kumar Garg, J.

CM No. 8011-C of 2011

1. Application is allowed subject to all just exceptions and on the consent of the parties, main appeal is taken on board.

RSA No. 2196 of 2009 (O & M)

Plaintiff-respondent filed a suit for declaration in the following manner:

Claim a decree for declaration that the order dated 29.10.2004 passed by the Managing Director UHBVN Panchkula whereby two annual increments of the plaintiff have been stopped without future effect is illegal, null and void etc. and liable to be set aside. A consequential relief of mandatory injunction to direct the defendant to restore the increments and to make payment of arrears to him along with interest @ 18% per annum has also been sought.

Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the plaintiff.

The said suit was decreed in the following manner:

It is ordered that the suit of the plaintiff is decreed with costs and the order dated 29.10.2004 passed by the Managing Director UHBVN Panchkula stopping two annual increments of the plaintiff without cumulative effect is set aside. The increments stopped vide this order are ordered to be released to the plaintiff forthwith. It is, however, made clear here that defendant shall be at liberty to conduct an enquiry against the plaintiff with reference to the charge sheet dated 2.4.2002 as per rules and to impose any penalty which it deems fit in accordance with law.

2. The appeal filed by the defendant-appellant against the aforesaid judgment and decree of the trial Court was dismissed by the first appellate Court.

3. The instant appeal has been filed on behalf of the defendant challenging the aforesaid judgments and decrees of the courts below.

4. During the pendency of this appeal, noticing the submissions made, this Court passed the following order on 22.02.2010:

Present: Mr. Praveen Gupta, Advocate for the appellant.

Mr. J.K. Goel, Advocate for the respondent.

Counsel for the respondent says that one of the grievances of the appellant is that no appeal was filed against the impugned order of punishment. Counsel submits that he intends to file appeal against the same and accordingly prays for longer adjournment to await the outcome of this appeal.

Adjourned sine die. To be set down for hearing on application moved by either of the parties after decision of the appeal. If the appeal is not filed within a period of 2 weeks from today, the appellant would be at liberty to move an application for hearing of the case.

Sd/- Ranjit Singh Judge

February 22, 2010

5. It is not in dispute that in pursuance of the aforesaid order, the appeal filed by the plaintiff-respondent under the Service Regulations has been dismissed by the authorities. It is further not in dispute that the plaintiff-respondent had also filed a review petition under Regulation 14(b) of the Haryana State Electricity Board Employees (Punishment and Appeal) Regulations, 1990 and the same has also been dismissed.

6. Keeping in view the aforesaid orders passed by the authorities, learned counsel for the appellant has vehemently argued that the instant suit has become infructuous.

7. Learned counsel for the plaintiff-respondent could not dispute the fact that the aforesaid orders, which have been passed now in his appeal and review petition, have to be challenged. In view thereof, this appeal is disposed of and the impugned judgments and decrees of the courts below are set aside holding that

in view of the subsequent decision in the appeal and review petition filed by the plaintiff-respondent, the suit filed by him challenging the original order dated 29.10.2004 has become infructuous, as necessarily the plaintiff-respondent has to challenge the subsequent orders passed in appeal and revision petition in accordance with law.

8. Keeping in view the aforesaid facts and circumstances of the case, the plaintiff-respondent is given liberty to seek his remedy afresh in accordance with law, challenging the impugned orders passed against him under the Service Regulations. In any case, if the fresh proceedings are instituted within two months from today, the issue of limitation shall not be raised against the plaintiff-respondent and the matter will be decided on merits in accordance with law.