



RSA-1327-2001 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**RSA-1327-2001 (O&M)
Date of Decision : 05.03.2025**

State of Punjab and Another

...Appellant

VERSUS

Ganpat Rai

...Respondent

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. S.S.Gill, Sr. DAG, Punjab
for the appellant.

Mr. Puneet Kumar Bansal, Advocate
for the respondent.

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SUDEEPTI SHARMA, J (Oral).

The present appeal is preferred against the judgment and decree dated 08.09.2000 passed by the learned District Judge, Ferozepur, whereby the appeal filed by the respondent against the judgment and decree dated 01.06.1998 passed by the learned Civil Judge (Sr. Divn.), Ferozepur, is allowed.

BRIEF FACTS

2. The brief facts of the present case are that the respondent was employed as conductor in Punjab Roadways, Ferozepur Depot. On the basis of some allegations, vide order dated 20.11.1985, the punishment of penalty of withholding of three annual increments was imposed on the respondent. Therefore, after the expiry of period of three years the respondent was entitled to the grant of annual increments withheld vide order dated 20.11.1985. The respondent approached the appellants, who in the reply disclosed that his case was sent to the then General Manager, who had passed order dated 20.11.1985 for seeking



clarification and accordingly he was told that his case was sent to Sh. Kuldeep Singh Gosal, the then General Manager, who was posted at Chandigarh, vide letter dated 22.12.1994 and after receipt of the reply, the respondent would be granted his due increments. Thereafter, the respondent made many requests for the release of his increments but he did not receive any response to the same. Therefore, he filed a civil suit in the year 1997 for the release of all the annual increments which were due since the year 1985 by taking penalty of withholding of three annual increments vide order dated 20.11.1985 as the increments withheld simplicitor as well as interest on the arrears. The civil suit filed by the respondent was dismissed vide judgment and decree dated 01.06.1998.

3. The respondent filed an appeal against the judgment and decree dated 01.06.1998, which was allowed by the District Judge, Ferozepur, vide its judgment and decree dated 08.09.2000.

4. Hence the present appeal by the State of Punjab.

SUBMISSION OF THE LEARNED COUNSEL FOR THE PARTIES

5. Learned counsel for the appellant contends that the learned First Appellate Court has wrongly allowed the appeal filed by the respondent ignoring the fact that onus to prove the wording in the order dated 20.11.1985, whereby the punishment of withholding of three annual increments was passed, was on the respondent and he could not place on record order dated 20.11.1985.

6. *Per contra*, learned counsel for the respondent contends that the appeal has rightly been allowed since the order dated 20.11.1985 was not available with the appellant itself and as per the service record punishment awarded was only stoppage of three increments and there was nothing regarding 'with cumulative effect'.



7. I have heard learned counsel for the parties and perused the whole record of this case.

UNDISPUTED FACTS

8. A perusal of the record shows that undisputedly on the basis of the dispute in the language of order dated 20.11.1985 withholding of three annual increments, Issue No.1 i.e “*Whether the defendant No.2 vide order bearing No.1897, dated 20.11.1985 imposed the penalty of withholding of these annual increments without cumulative effect? OPP*” was framed. Therefore, the main dispute in the present appeal is Issue No.1.

9. A perusal of the record further shows that the civil suit was filed by the respondent since the appellants did not grant him three annual increments withheld vide order dated 20.11.1985.

10. The respondent approached the appellants and it is admitted fact on record that the appellant disclosed that the case of the respondent was sent to, the then General Manager, who had passed order dated 20.11.1985 for seeking clarification. Further, the respondent was told that his case was sent to Sh. Kuldeep Singh Gosal, the then General Manager, who was posted at Chandigarh, vide letter dated 22.12.1994.

11. The respondent appeared as PW-1 and stated that his three annual increments were withheld vide order dated 20.11.1985 temporarily, but he was not given a copy of the order passed in this regard. He further stated that Ex.P/4 is the record of his service book and there is an entry on page 7 with regard to him being re-instated in the service after inflicting of the punishment of three annual increments having been stopped.

12. Further a perusal of the record shows that as per letter No.27127/ECC



dated 22.12.1994, written by defendant No.2 - General Manager, Punjab Roadways, Ferozpur (Appellant No.2) to Sh. Kuldeep Singh Gosal, General Manager, Chandigarh Transport Undertaking (CTU), as well as letter No.1412 dated NIL written by Sh. Kuldeep Singh Gosal, General Manager, CTU to defendant No.2 - General Manager, Punjab Roadways, Ferozpur, in response to memo No. 9057/ECC dated 24.05.1996, the enquiry file was lost in transit while lying in custody of postal authorities and therefore, the appellants could not produce the order dated 20.11.1985. Meaning thereby that the record of the appellants itself was not traceable.

13. Further, the undisputed fact is that the appellants themselves stated so that case of the respondent was sent to the then General Manager, who had passed order dated 20.11.1985 for seeking clarification. Therefore, apparently order dated 20.11.1985 stated penalty of withholding of three annual increments simplicitor. More so, as per service record also the entry made is inflicting of punishment of three annual increments. Since, service book of any employee is the record which shows the entries regarding salary, increment, payment, punishment, etc., of the employee which is filled by the office itself, therefore, the same cannot be ignored.

14. Further, the appellants were not able to prove, as to whether punishment of penalty of withholding of three annual increments with cumulative effect was imposed vide order dated 20.11.1985. Since it is the admitted case of the appellants that they sent order dated 20.11.1985 for clarification. Further entry in the service book also states that the punishment of three annual increments was imposed and the record of the appellant was lost, therefore, I do not find any infirmity in the judgment and decree dated 08.09.2000 passed by the learned District Judge, Ferozpur.



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12. Consequently, the present appeal is dismissed being devoid of any merit with no order as to costs and the judgment and decree dated 08.09.2000 passed by the learned District Judge, Ferozpur, is upheld.

13. Decree sheet be drawn.

13. Pending application(s), if any, also stand disposed of.

March 05, 2025.
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes