

SUPREME COURT OF INDIA

Gurpreet Singh

Vs.

State of Punjab

(G Pattanaik, R Sethi and A Pasayat JJ.)

18.01.2002

ORDER

1. Leave granted.

2. The Plaintiff is in appeal against the impugned judgment of the High Court of Punjab & Haryana in a second appeal. The plaintiff's services stood terminated and he filed the suit for declaring the order of termination null and void. The suit was dismissed. The lower appellate Court, however, on re-appreciation of the materials on record, came to the conclusion that the order passed by the D.I.G. must be held to be illegal and consequently directed that the plaintiff should be reinstated in service. Having directed so, the first appellate court categorically held that the plaintiff will not be entitled to any arrears of salary for the period for which he has not served. The plaintiff assailed the appellate decree by filing a second appeal claiming that he would be entitled to the arrears of salary. The High Court by the impugned order not only confirmed the decree of the lower appellate court that the plaintiff will not be entitled to any arrears salary, but also further added that the plaintiff will not get his continuity of service. The plaintiff, therefore, is in appeal before this Court.

3. Having heard the learned counsel for the parties and on examining the materials on record, we fail to understand how the continuity of service could be denied once the plaintiff is directed to be reinstated in service on setting aside the order of termination. It is not a case of fresh appointment, but it is a case of reinstatement. That being the position, direction of the High Court that the plaintiff will not get continuity of service cannot be sustained and we set aside the part of the impugned order. So far as the arrears of salary is concerned, we see no infirmity with the direction which was given by the lower appellate court taking into account the facts and circumstances including the fact that the suit was filed after a considerable length of time. That part of the decree denying the arrears of salary stands affirmed and this appeal stands allowed in part to the extent indicated above.