

STATE OF PUNJAB AND ANR.

A

v.

SWARAN SINGH

JANUARY 24, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

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*Service Law :*

*Punjab Civil Services (Punishment and Appeal) Rules, 1970) : Rules 11, 14, 15(v)(c)—Pension—15% cut in pension as a measure of penalty—Suit filed by employee against the cut in pension—Decreed by Trial Court—Confirmed in appeal—Second appeal dismissed—On appeal by state,—Held : it is not a case where the primary authority imposed the penalty without supplying copy of report and action taken thereon—The appellate authority has the power and authority to impose cut in the pension—Though R. 11 provides for supply of enquiry the infraction therefore makes no difference in view of the facts of this case.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 489 of 1997.

From the Judgment and Order dated 20.10.93 of the Punjab & Haryana High Court in R.S.A. No. 2076/93.

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H.S. Munjral and R.S. Suri for the Appellants.

H.M. Singh for the Respondent.

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The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

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This appeal by special leave arises from the order of the single Judge of the High Court of Punjab and Haryana, made on October 20, 1993 in RSA No. 2076 of 1993 dismissing the appeal *in limine*.

The only question is : whether the appellant is empowered to impose 15% cut in the pension of the respondent as a measure of penalty. Dis-

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A disciplinary proceedings were initiated against the respondent and pending proceedings, he retired from service. The disciplinary authority passed the order before his superannuation on February 15, 1987 holding that misconduct on his part was established; however, a minor penalty was imposed. But the higher authority, on appeal, gave notice to the respondent and disagreed with the disciplinary authority's conclusion and imposed 15% cut in the pension payable to the respondent by proceedings dated March 30, 1989. The respondent filed a civil suit. The trial Court decreed that suit. On appeal, it was confirmed and the second appeal, as stated earlier, was dismissed *in limine*.

C It is seen that notice was issued by this Court by order dated April 19, 1996 confined to the question whether the power of the authority to withhold whole or any part of the pension is correct or not. It is seen that Rule 15(v)(c) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 provides that "subject to the provisions of Rule 14, a Government employee may prefer an appeal against all or any of the orders and while disposing of the appeal the appellate authority has power to order (c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules". It is contended by the learned counsel for the respondent that Rule 11 casts duty to supply enquiry report along with the penalty which has not been supplied. Therefore, the order is violative of Rule 11 of the Rules. We find no force in the contention. It is seen that the impugned order came to be passed on appeal by the appellate authority. We have already held that it has the power and authority to impose cut in the pension. It is not a case where the primary authority imposed any penalty without supplying copy of the report and action was taken thereon. Under these circumstances, though Rule 11 provides for the supply of copy of the enquiry report, the infraction thereof makes no difference in view of the facts in this case.

The appeal is accordingly allowed. The judgment and decree of all the courts stands set aside. As a result, the suit stands dismissed. No costs.

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Appeal allowed.