

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 933 OF 2001@@
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STATE OF PUNJAB AND ANR. ...APPELLANTS

VERSUS

JASWANT SINGH ...RESPONDENT
(With office report)

Date : 11/02/2003 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. Atul Nanda, Addl.Adv.Gen., Punjab
Mr. R.S. Suri, Adv.

For Respondent (s) Mr. Vipin Gogia, Adv.
Ms. Jaspreet Gogia, Adv.
Mr.T.S. Arora, Adv.

UPON hearing counsel the Court made the following
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Mr. Atul Nanda, Addl. Advocate General, Punjab
started his arguments at 2.35 p.m. and concluded at 2.50
p.m. After that, Mr. Vipin Gogia argued the matter for
10 minutes.

The appeal is disposed of in terms of the signed
order. No costs.

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Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 933 OF 2001@@
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VERSUS

JASWANT SINGH

...RESPONDENT

O R D E R@@
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The respondent was recruited as a constable. He was discharged from service by the order dated 5.3.1990 under Punjab Police Rules 12.21 with effect from 3.3.1990 on the ground of his wilful absence from 25.2.90 to 3.3.90. Aggrieved by the said order he filed Civil Suit seeking declaration that the order of discharge was null and void and also for the consequential reliefs. The trial court decreed the Suit. The First Appellate Court affirmed it in the appeal filed by the appellants. The appellants not being satisfied with the judgment and decree passed by the First Appellate Court, approached the High Court by filing the Second Appeal. The High Court dismissed the Second Appeal affirming the findings recorded by the two courts below. In the impugned order it is stated that there appears to be no reason to

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interfere with the findings of the courts below. The arguments advanced on behalf of the appellants that the order of discharge passed against the respondent was simplicitor and not stigmatic, was rejected by the High Court. Hence this appeal.

Mr. Atul Nanda, Additional Advocate General for the State of Punjab urged that the High Court was not right and justified in dismissing the appeal without examining the questions of law that arose for consideration. The appeal was dismissed in limine but affirming the findings of both the courts below. In opposition, Mr. Vipin Gogia, learned counsel for the respondent made submissions supporting the impugned judgment and decree.

A plain reading of the impugned judgment shows that the High Court did not consider as to whether any substantial question of law arose for consideration in the appeal. But straight-away proceeded to examine the merits of the order passed by the First Appellate court and concurred with the same. The High Court in Second Appeal gets jurisdiction to decide the appeal only on

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finding that a substantial question of law arises for consideration.

In this view, without expressing one way or the other on the merits of the respective contentions, we think it is just and appropriate to set aside the impugned order and remit the appeal to the High Court to consider as to whether any substantial question of law

arises for consideration in the light of the grounds raised in the appeal memorandum and the substantial questions of law, if any, to be formulated by the appellant by filing a memo to that effect. The High Court may proceed to dispose of the appeal after framing the substantial question/questions of law, if any, that arise for consideration, and then dispose of the second appeal in accordance with law.

The appeal is disposed of in the above terms. No costs.

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.....J.
(SHIVARAJ V. PATIL)

New Delhi,
February 11, 2003.

.....J.
(ARIJIT PASAYAT)