

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.5591 OF 2017

STATE OF PUNJAB & ORS.

Appellants

VERSUS

SURINDER SINGH

Respondent

**O R D E R**

The question which arose for consideration in this matter has been summed up by the Division Bench in its order, which is presently under appeal, as follows:

“The question that arose for consideration of the learned Single Judge was whether the respondent was entitled to be reinstated in service as a Special Police Officer (for short, the SPO), after his acquittal in FIR No.74 dated 09.05.2000 registered at Police Station Ghanaur under Section 15 of the NDPS Act, 1985?”

The respondent was recruited as Special Police Officer in the year 1992 and his services were discharged after eight years on 17.11.2000. The order recited thus:

“As per report of SHO Police Station Ghanaur, SPO Surinder Singh No.559/Patiala against whom FIR 74 dated 9.5.2000 under Section 15/61/85, Police Station Ghanaur has been registered. This SPO was arrested in this case on 2<sup>nd</sup> June, 2000. Being the member of Police force, the registration of case against you is a gross indiscipline as such, you are hereby removed from your post of SPO forthwith.”

It is matter of record that three persons were arrayed as accused in connection with crime arising from the aforesaid FIR. Apart from the respondent, other two persons were employed in Home Guards in the State of Punjab. It further appears that all three accused

were not regular employees. In the trial, all three accused were acquitted. The Trial Court found that the prosecution had miserably failed to prove the recovery of contraband material so as to attract the relevant charges under the provisions of the NDPS Act, 1985.

After acquittal, the other accused, who were Home Guards, were reinstated in service. The respondent prayed for similar benefit which was denied to him.

Dealing with an action initiated to challenge such denial, the learned Single Judge of the High Court by his judgment and order dated 09.05.2016 allowed the writ petition. While setting-aside the order of discharge from service, the Single Judge directed that the respondent be taken back as Special Police Officer but he would not be entitled to any financial benefits for the period he remained out of service.

The decision of the Single Judge was appealed against by the State but without any success. The decision of the Division Bench of the High Court order dated 22.08.2016 is presently under appeal.

We have heard Ms. Uttara Babbar, learned counsel for the State of Punjab and Mr. Karan Kapoor, learned counsel for the respondent.

What emerges from the record is that three persons working in the uniformed service of the State, though all of them were not regular employees, were accused of the offence under the NDPS Act, 1985. The guilt could not be proved and according to the Trial Court, the prosecution had miserably failed in that behalf. Two out of those three persons are presently reinstated.

The benefit given to the present respondent under the orders of the learned Single Judge was after a fair analysis by the Courts below.

We, therefore, affirm the view taken by the High Court and dismiss the present appeal, with no order as to costs.

Needless to say that we have gone purely on the peculiar facts situation prevailing in this matter.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[INDU MALHOTRA]

NEW DELHI;  
APRIL 3, 2019

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPEAL NO.7054 OF 2018**

**STATE OF PUNJAB & ORS.**

**Appellants**

**VERSUS**

**SPO KESAR SINGH**

**Respondent**

**O R D E R**

This appeal questions the judgment and order dated 17.01.2018 passed by the High Court of Punjab and Haryana at Chandigarh in Regular Second Appeal No.164 of 2016.

According to the appellant, the respondent came to be appointed as temporary Special Police Officer w.e.f. 04.02.1994 and he was allowed to join duty in Police Line, Patiala. The order of appointment dated 01.03.1994 was as under:

"Candidate Kesar Singh S/o Shri Surjit Singh Rywal, P.S. Amloh, District Fatehgarh as herebgarh is hereby appointed as temporary S.P.O. w.e.f. 4.2.94 and allotted SPO No.1538. He may be joined his duty in Police Lines, Patiala. He can be discharged at any time due to lack of vacancies or if found absent from duty without any show-cause notice."

By a subsequent order dated 06.08.1994 passed by the Senior Superintendent of Police, Patiala, 18 Special Police Officers including the respondent were discharged. The order indicates that on the report of the Circle Officer, the work of said 18 SPOs having not been found satisfactory, it was observed that they were not likely to become good police officials and as such, their services were required to be discharged.

It is disputed by the respondent that the appointment was made in the year 1994, and according to him, it was actually made in the year 1991. However, the fact remains that he was discharged on 06.08.1994 and nearly 13 years thereafter, a departmental appeal was preferred by the respondent to the Deputy Inspector General of Police, Patiala Range, Patiala, against the aforesaid order of the discharge.

The departmental appeal having been rejected, the respondent filed Civil Suit No.547T of 2007 in the Court of Additional Civil Judge (Senior Division), Patiala challenging the order of discharge as well as dismissal of the departmental appeal.

The civil suit was decreed by the Trial Court which decision was affirmed by the Additional District Judge, Patiala in Civil Appeal No.177/26/2014. The matter was carried further by the State by filing Regular Civil Appeal No.164 of 2016 in the High Court. The said appeal was summarily rejected, which decision is presently under challenge in this appeal.

We have heard Ms. Jaspreet Gogia, learned counsel for the State of Punjab and Mr. Nishant Sharma, learned counsel for the respondent.

Whether the respondent was appointed in the year 1991 or 1994 is not material as the admitted fact on record is that his service stood discharged on 06.08.1994. The challenge in that behalf by way of departmental appeal itself was made after 13 years. The civil suit may have been filed soon after the order of dismissal of the departmental appeal but the very action was highly delayed insofar as the order of discharge was concerned. This one single

factor was sufficient to dismiss the claim raised by the respondent.

We, therefore, allow this appeal, set-aside the judgments rendered by the courts below and dismiss Civil Suit No.547T of 2007, with no order as to costs.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[INDU MALHOTRA]

NEW DELHI;  
APRIL 3, 2019

ITEM NO.1

COURT NO.8

SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No.5591/2017

STATE OF PUNJAB & ORS.

Appellant(s)

VERSUS

SURINDER SINGH

Respondent(s)

WITH

C.A. No.7054/2018 (IV)

(I.A. NO.15024/2019 - APPLICATION FOR TAGGING/DETAGGING; and, IA  
NO.128237/2018 - APPLICATION FOR STAY)

Date : 03-04-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MS. JUSTICE INDU MALHOTRA

CA No.5591/2017

For Appellant(s)

Ms. Uttara Babbar, AOR  
Ms. Bhavana Duhoon, Adv.  
Mr. Manan Bansal, Adv.

For Respondent(s)

Mr. Karan Kapoor, Adv.  
Mr. Manik Kapoor, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

CA No.7054/2018

For Appellant(s)

Ms. Jaspreet Gogia, AOR  
Ms. Mandakini Singh, Adv.  
Ms. Ashima Mandla, Adv.

For Respondent(s)

Mr. Nishant Sharma, Adv.  
Mr. Rakesh K. Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Civil Appeal No.5591/2017

The Civil Appeal is dismissed, in terms of the signed order.

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

Civil Appeal No.7054/2018

The Civil Appeal is allowed, in terms of the signed order.

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

(MUKESH NASA)  
COURT MASTER

(RAJINDER KAUR)  
BRANCH OFFICER

(Signed Orders are placed on the File)