

R-108

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 30.11.2010
Judgment delivered on: 02.12.2010

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RSA No.82/2002

RAGHUBIR SINGH

.....Appellant

Through: Mr. R.C. Chopra, Advocate

Versus

STATE OF HARYANA & ANR.

.....Respondents

Through: Mr. Yash Pal Rangi, Advocate
with Mr. Manjit Singh,
Advocate

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

INDERMEET KAUR, J.

1. This appeal has impugned the judgment and decree dated 24.01.2002 which had endorsed the finding of the Trial Judge dated 01.10.1993, whereby, the suit of the plaintiff Raghuvir Singh was dismissed.

2. The plaintiff had filed a suit for declaration and consequential relief. He had joined service of the defendant no. 2 i.e. Haryana Roadways Corporation as a conductor w.e.f. 30.09.1967. He served there till 30.04.1971. On 30.04.1971, his services were illegally terminated. He was placed under suspension on a false accusation. Charge-sheet had been issued. Enquiry Officer had been appointed. However, Departmental enquiry was not conducted. The general manager of the Department called the plaintiff and on the belief that no harm will be caused to him, the plaintiff gave in writing

that he was not interested that an enquiry be conducted against him. The plaintiff accordingly gave application dated 10.03.1971 to the said effect. This resulted in the termination of his service. In spite of request to the Department to reinstate him, his request was not considered. His appeal was dismissed on 10.12.1980. It is pointed out that there has been a violation of the principles of natural justice. Suit was accordingly filed.

3. Defendant contested his suit. It was stated that a charge-sheet had been served upon the plaintiff, whereafter, the plaintiff had himself given in writing that he does not wish any enquiry to be conducted against him and he would be satisfied with the punishment meted out to him.

4. Trial Judge had framed the following five issues:-

- “(i) Whether suit is barred by time? OPD
- (ii) Whether this court has no jurisdiction to try the suit? OPD
- (iii) Whether the suit is subjudice? OPD
- (iv) Whether impugned order dt. 30.4.71 terminating the services of plttf. was illegal, void and contrary to the law and liable to be set aside? OPP
- (v) Relief.”

5. On the basis of the oral and documentary evidence led before the Court below all the issues were decided against the plaintiff. Suit of the plaintiff was dismissed. The Court returned a finding that the suit filed by the plaintiff was within the time; it was dismissed on merits including the finding that such a suit was not maintainable.

6. The first Appellate Court vide the impugned judgment dated 24.01.2002 endorsed these findings in part. Finding on Issue No. 2 was set-aside. It was held that a suit filed by an employee seeking declaration that his services have been illegally terminated was maintainable. The Appellate Court had relied upon a judgment of the Supreme Court reported in AIR 1987 SC 2043 Ram Kumar vs.

State of Haryana.

Issue No. 4 on the legality of the termination order was dealt with in the following manner:-

“Coming to the issue No. 4 as to whether the order terminating the services of the appellant was illegal, void and contrary to the law and liable to be set aside, the appellant on its part admits that he gave in writing that he was not interested in the enquiry being held against him and he may be given the appropriate punishment, though he attributed that he did so on the asking of the General Manager of the respondent No. 2. As per the allegations made in the plaint, the General Manager conspired with other persons who were enmical towards him, but no evidence has come to be led to prove such allegations. During his cross-examination the appellant has then also categorically deposed that when he was given show cause notice against the proposed termination of his service by the General Manager, he had not given in writing that the General Manager had obtained the letter regarding non-participating in enquiry against him by force. The allegation as such made by the appellant for his non-participating in enquiry, I find to be an afterthought and the facts and the circumstances of the case do not show that there is any violation of either the statutory provisions or the principles of natural justice. When that is so, the Civil Court would refrain itself from interfering with the termination order passed by the respondents which has come to be even upheld by the State Transport Controller, Haryana.”

7. This is a second appeal. After admission on 04.11.2003, the following substantial question of law was formulated. It reads as follows:

“Whether termination of services of the appellant by respondent No. 2 is contrary to the principles of natural justice.”

8. On behalf of the appellant, it has been urged that the finding of the Courts below is illegal and arbitrary; the plaintiff could not be terminated from services without holding a proper enquiry; this was a valuable right which has been lost; principles of natural justice have not been adhered to.

9. Arguments have been countered. It is pointed out that the plaintiff himself having admitted his guilt and having stated in writing that he does not wish an enquiry to be conducted against him, it cannot be said that there has been any violation of the principles of natural justice.

10. Perusal of the record shows that the charge-sheet dated 12.01.1971 had been issued to the plaintiff. The reply dated 29.01.1971 furnished by the delinquent/official was sent by him duly signed through an Advocate. His contention was that the some of the passengers had got into bus forcibly at the time when the bus had stopped at the 'phatak'; it was at that time when he was in the process of issuing tickets that the local flying squad came to check the bus and found the excess passengers without tickets; there was no cheating on his part. This explanation furnished by the delinquent/plaintiff was found to be unsatisfactory. Enquiry was accordingly initiated. Enquiry Officer was also appointed. Thereafter on 10.03.1971, the following communication was given by the delinquent/plaintiff in writing. It reads as follows:-

"The General Manager,
Haryana State Roadways,
Gurgaon.

Sir,

It is submitted that I have received the Charge Sheet bearing No. 815-G-1 (F) on 17.1.1971. No enquiry is required herein, whatever appropriate punishment may deem fit be awarded I would accept the same. Kindly I may be reinstated and directed to join duty.

Yours faithfully

Dated: 10.3.1971

(Raghubir Singh)"

11. This document is an admitted document. Submission of the delinquent that this letter was written only on the assurance given by the general manager that no harmful action would be taken against him was clearly set up as an after-thought and finds mention by both the two fact-finding Courts below. The delinquent/plaintiff had himself accepted his guilt. The question of the continuance of the enquiry under these circumstances did not arise. There was no violation of the principles of natural justice.

12. In AIR (1968) 1 SCR 251 Central Bank of India Ltd. v. Karunamoy Banerjee, the Supreme Court on the admission of guilt by a workman had held that in such a case where the worker had admitted the truth of the allegation in reply to the charge-sheet, there is nothing more for the management to enquire; in case of such an admission it would be a needless formality to insist upon the management to lead evidence; in such cases principles of natural justice are not violated.

13. In 1971 (1) SCC 1 Channabasappa Basappa Happali vs. The State of Mysore where a police constable in the course of the enquiry had admitted the relevant facts but denied that he was guilty; he did not cross-examine any witness or lead any evidence on his behalf; the order of dismissal was upheld. The Supreme Court held that since the appellant had admitted all the relevant facts on which the decision could be given against him, it could not be said that the enquiry was in breach of any principle of natural justice.

14. This Court is sitting in second appeal. It can interfere with findings of the facts only if the same are perverse. No such perversity has been pointed out. There has been no violation of the principles of natural justice. Record speaks for itself. There is no merit in the appeal. Dismissed.

(INDERMEET KAUR)
JUDGE

DECEMBER 02, 2010
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