



RSA-4611-2004

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

-.-

**RSA-4611-2004 (O&M)
Date of Decision : 16.10.2024**

Hans Raj

....Appellant

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Sehar Navjeet Singh Sandhu, Advocate
for the appellant.

Mr. Maninder Singh, Sr.DAG, Punjab.

-.-

SUDEEPTI SHARMA, J (Oral).

The present appeal is preferred against the judgment and decree dated 05.09.2003 passed by the Additional Civil Judge (Sr. Division), Patiala, whereby the civil suit filed by the appellant against orders dated 12.06.1998 and 20.04.2000 was dismissed and judgment and decree dated 26.05.2004, whereby the appeal filed against the judgment and decree dated 05.09.2003 was also dismissed by the learned Additional District Judge, Patiala.

2. The brief facts of the case are that the appellant was serving in CRPF 23 Battalion. During service, he obtained no objection certificate on 11.09.1991 that if he gets job in Punjab Police, CRPF will have no objection and he will be relieved. Thereafter, the appellant became absent and Commandant 23 Battalion CRPF vide order dated 09.03.1993 dismissed him from service after departmental proceedings.

**RSA-4611-2004****-2-**

3. The appellant applied to S.S.P Mansa for his appointment as Constable in the Police Department and he was appointed as S.P.O on 08.07.1992. After verification of the character of the appellant, he was appointed as Constable by I.G. PAP Jalandhar Cantt from the list of S.P.Os. Name of the appellant was at Sr. No.2. D.I.G of Police vide order dated 23.04.1994 allocated the appellant to Indian Reserve Battalion No.1/406 and sent him to First Reserve Battalion. DIG vide memo dated 07.01.1995 wrote to the officer of commandant that Hans Raj (appellant) was previously working in CRPF 23 Battalion and he got no objection certificate on 11.09.1991 for his appointment in the Punjab Police. In that event, the CRPF has no objection and subsequently, he became absent and on the basis of absence, the appellant was dismissed from service. Thereafter enquiry proceedings were started and on the basis of enquiry report, a show cause notice was issued to the appellant and the appellant was dismissed from service on 12.06.1998. The appellant filed departmental appeal which was subsequently dismissed vide order dated 20.04.2002.

4. He filed civil suit challenging the dismissal order, which was dismissed vide judgment and decree dated 05.09.2003 by the learned Additional Civil Judge (Sr. Division), Patiala. Thereafter, he filed appeal against the same, which was dismissed by the learned Additional District Judge, Patiala vide its judgment and decree dated 26.05.2004. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

5. Learned counsel for the appellant contends that both the Courts below have erred in holding that the appellant has concealed his dismissal while joining the Punjab Police as SPO. Further that dismissal order was based on enquiry report and rejection of appeal by DIG, based on the opinion of District Attorney

**RSA-4611-2004****-3-**

and applicability of Punjab Police Rule 12.7. She further contends that the appellant applied for the post of constable in the Punjab Police, after getting “No Objection Certificate” from CRPF.

6. *Per contra*, learned State counsel contends that both the Courts have rightly dismissed the civil suit as well the appeal filed by the appellant after appreciation of evidence on record. Therefore, prays for dismissal of present appeal.

7. I have heard learned counsel for the parties and perused the whole record of the case.

8. It is an admitted case of the appellant that he was working in CRPF and obtained “No Objection Certificate” from CRPF on 11.09.1991 to the effect that the department has no objection in case he is appointed in Police Department, Punjab. In case of selection, the appellant was required to seek relieving from the CRPF Department, but it is admitted by the appellant that after obtaining no objection, he remained absent from duty.

9. Further, he did not join as SPO through proper channel since there was no relieving order from the CRPF department.

10. One of the ground taken in the grounds of appeal is that the appellant was not dismissed from service by the competent authority.

11. A perusal of the record shows that the appointing authority of the appellant was Senior Superintendent of Police, Mansa and this fact is admitted by the appellant. As per Punjab Police Rules, appointing authority of the appellant is also Senior Superintendent of Police of the District. A perusal of the record further shows that departmental enquiry was conducted in accordance with law and after following the principles of natural justice. The appellant was given list of charges

**RSA-4611-2004****-4-**

and show cause notice. After taking reply to the charge-sheet, regular enquiry was ordered to be conducted by appointing an enquiry officer who on appearance of appellant before him supplied all the documents including imputation of misconduct. When the appellant opted to contest the enquiry, the departmental witnesses cited in the list of enquiry were examined and therefore appellant was given an opportunity to lead his evidence in defence.

Upon completion, enquiry officer submitted his report. Thereafter the appellant was given show cause notice proposing punishment and thereafter upon consideration of reply filed by appellant, the Competent Authority, dismissed the appellant. All this shows that the appellant was granted every opportunity of being heard and there is no violation of principles of natural justice.

12. A perusal of the record further shows that learned trial Court as well as first appellate Court after considering the evidence on record have dismissed the suit as well as appeal filed by the appellant by passing the well reasoned, speaking judgment. Therefore, the same requires no interference by this Court.

13. In view of the above, I do not find any infirmity in the judgment and decree dated 05.09.2003 passed by the Additional Civil Judge (Sr. Division), Patiala, and judgment and decree dated 26.05.2004 passed by the learned Additional District Judge, Patiala. Accordingly, the present regular second appeal is dismissed. However, the parties are left to bear their own costs.

14. Decree sheet be prepared accordingly.

15. Pending applications, if any, also stand disposed of.

October 16, 2024
tripti

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes