

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

**RSA No.421 of 1995
Date of decision : 22.07.2015**

The State of Punjab & another ...Appellants
versus

Parveen Kumar ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vaibhav Sharma, DAG, Punjab.

Mr. Manmeet Singh Rana, Advocate for the respondent.

RITU BAHRI, J (Oral)

State of Punjab has come up in regular second appeal against the judgment of the trial Court dated 12.05.1993 and the lower appellate Court dated 13.05.1994, whereby suit of the plaintiff has been decreed and the order dated 12.01.1990, vide which his services were terminated had been set aside.

The plaintiff was appointed as an employee of the Department and served as a conductor. On the allegations of misconduct, he was charge sheeted and thereafter a regular enquiry was conducted and thereafter his services were terminated. The grievance of the plaintiff was that the charge sheet did not contain sufficient material and the entire list of witnesses was not mentioned and the description of document was not given. The enquiry proceeding was not held in accordance with Rule 8 and 9 of the

Punishment and Appeal Rules, as he was not allowed to take assistance of a co-worker and was not allowed to inspect the record.

On notice, the defendants denied the allegations of the plaintiff. The trial Court framed the following issues:

- “1. *Whether this court has no jurisdiction to entertain and try the present suit? OPD.*
2. *Whether the suit is within time? OPD.*
3. *Whether the impugned order dated 12.01.1990 is void, illegal and ineffective qua the rights of the plaintiff? OPP.*
4. *Whether the plaintiff is entitled to the declaration prayed for? OPP.*
5. *Relief.”*

The main charges against the plaintiff were as under:

- “i) *Non-issuance of tickets to passengers and lying down before Jeep of Checking staff in drunken condition and misbehaviour with the checking staff and to ran away the bus.*
- ii) *That the plaintiff took the bus from the Bus Stand without placing it at the Counter.”*

The trial Court perused the entire file and came to the conclusion that nothing was stated with regard to drunken condition of the plaintiff in the report of the inspector. The allegation was that he had run away and this probability seems to be unbelievable. The allegation that the plaintiff had run away with the bus was unbelievable as it was the driver who was to stop and to run the bus and not the conductor. With regard to second charge Adda Incharge Kastoori Lal was not examined by the defendants at whose instance this charge was framed. It was finally concluded that it was a case of no evidence

against the plaintiff. The enquiry officer admitted before the trial Court that it was the duty of the bus driver and not of the conductor to stop the bus. As per the enquiry with regard to both the charges, it was a case of no evidence. The punishing authority at the same time did not apply its mind while passing the order of removal from service of the plaintiff. The punishing authority fully agreed with the enquiry report but did not record its reason for its agreeance with the report.

In the absence of any evidence in the enquiry the suit of the plaintiff was decreed and the termination order was set aside. Reference was made to a judgment of this Court reported as **AIR 1963 Punjab 336, Railway Board Vs. Niranjan Singh** and the judgment of the Hon'ble Supreme Court reported as **AIR 1968 Supreme Court 434**, where the order of removal of a public servant on the ground of a conclusion of enquiry officer had been based on a case of no evidence. The lower appellate Court on appeal has affirmed the findings given by the trial Court and has given reasons to affirm the same. It has been observed that it was not a case of the department that the tickets have not been issued rather it was a case that the tickets have been punched wrongly. It was not the case of the department that in between the way bill showed that the conductor had issued the tickets to the passengers traveling between Guraya and Phillaur. Even with regard to allegation that one passenger was found traveling without ticket there was a note on the ticket that he was asked to pay 10 times fare and he paid. The findings recorded by the trial Court that the bus had to be stopped by

the driver when there is a signal by the checking staff and at this fault the plaintiff should have been given an opportunity to improve his conduct. After going through the judgments of both the Courts below and as per enquiry no charges were proved against the plaintiff, no substantial question of law arises for adjudication.

Dismissed.

22.07.2015
Vinay

(RITU BAHRI)
JUDGE