

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

**Regular Second Appeal No.4165 of 1999 (O&M)
Date of decision: 01.09.2015**

Baldev Singh Saini

.....Appellant

Versus

Punjab State Electricity Board

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. C.B. Goel, Advocate,
for the appellant.

Ms. Malikat Mann, Advocate,
for the respondent.

Ritu Bahri, J.

Defendant-appellant has come up in regular second appeal against the judgment dated 15.06.1999 passed by the District Judge, Hoshiarpur, dismissing his appeal against the judgment and decree dated 04.09.1997 passed by the Additional Civil Judge (Senior Division), Hoshiarpur, whereby suit filed by the plaintiff-PSEB (respondent herein) was partly decreed for recovery of Rs.2,64,188.35 with proportionate costs along with pendente lite and future interest at the rate of 12% per annum.

Plaintiff-PSEB (respondent herein) filed a suit against the defendant-appellant for recovery of Rs.2,64,622.13 paise, alleging therein that Baldev Singh-defendant while working with the plaintiff-Board as Junior Engineer at Dasuya and Bhogpur, had executed many works. After verification of those works, he was charge sheeted on 18.04.1990. Shortage and misappropriation of the stores was found. After conducting a proper

enquiry, he was dismissed from service vide order dated 28.08.1991.

Upon notice, defendant-appellant filed written statement and took preliminary objections with regard to limitation, mis-joinder of necessary parties and territorial jurisdiction of the Court at Hoshiarpur. It was submitted that a theft had been committed in the stores of the plaintiff-respondent when the defendant was in jail. At the time of calculations of the alleged shortage against the defendant, the stolen goods had not been adjusted.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the suit is filed by a duly authorised person? OPP
2. Whether the plaintiff is entitled to recover the amount in question as alleged? OPP
3. Whether the suit is barred by time? OPD
4. Whether the suit is bad for non-joinder of necessary parties?
OPD
5. Whether this Court has no territorial jurisdiction to try the present suit? OPD
6. Whether the suit is not maintainable in the present form? OPD
7. Relief.

Both the Courts below have decided in favour of the plaintiff-defendant.

The defendant-appellant was dismissed from service vide order dated 28.08.1991 (conveyed on 31.08.1991). A recovery order was also passed against him. Baldev Singh had filed a suit challenging his dismissal, which was dismissed by the Additional Civil Judge (Senior Division),

was dismissed by the Additional District Judge, Hoshiarpur on 07.06.2003. However, the only relief given to him was that he could make an application for grant of G.P. Fund amount and the defendants (in that suit) were to pass appropriate orders after adjusting the amount recoverable from Baldev Singh.

The order of termination was allegedly, challenged by Baldev Singh before this Court by filing a writ petition, which was dismissed. His suit challenging the dismissal order was dismissed being time barred as the same was filed after more than seven years. The decision given in civil suit challenging the termination order, has been affirmed vide detailed reasoning given in RSA No.5489 of 2003. Once, the order of termination has been affirmed, the judgment/order of recovery of Rs.2,64,188.35 does not require any interference. The termination order as well as the order of recovery have been passed after adopting due procedure of law.

Trial Court while dismissing the suit, which was filed by Baldev Singh, had observed that he had challenged the order of dismissal before the High Court by filing a writ petition, but he had not challenged the order of recovery. The order of recovery had attained finality. The lower appellate Court has observed that Baldev Singh-appellant did not challenge the order regarding recovery, which was being effected from him.

Mr. T.R. Datta, SDO, PSEB (PW-4) deposed that defendant-Baldev Singh did not record the measurement after completing the work. He himself had conducted the measurement and prepared a report regarding the works performed by the plaintiff, copies of which were proved as Ex.PW4/A to Ex.PW4/F. Ajaib Singh (PW-6) had conducted verification on the works done by Baldev Singh-defendant (appellant herein) and found

reports 83049, 83081 and 83172. Baldev Singh-defendant while appearing as DW-1 had stated that there was no shortage of material or work. He further stated that he did not had good relations with Ajaib Singh, SDO, T.R. Datta, SDO and Bhardwaj, JE. They were inimical against him, but no reason had been given regarding the alleged enmity. He had admitted that another recovery of Rs.3200/- was also imposed upon him, however, he did not file any appeal against that order. Apart from this, another penalty of Rs.5652/- and 3481-70 was also imposed upon him, against which, he did not file any appeal.

After going through the impugned judgments, this Court is of the view that once the defendant-appellant had admitted that he had not filed any appeal against the aforesaid recovery orders, the suit filed by the PSEB-plaintiff (respondent herein) has been rightly decreed by both the Courts below. No illegality, much less perversity, has been found in the impugned judgments warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

01.09.2015
ajp

(RITU BAHRI)
JUDGE