IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No. 2105 of 2012 (O&M)
Date of decision : 06.08.2015

P.R.T.C ...Appellant

versus

Kesar Singh ...Respondent

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Karan Singla, Advocate
for the appellant

Mr. K.S. Boparai, Advocate
for the respondent.

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RITU BAHRI , J.

C.M. No. 5844-C of 2012

For the reasons mentioned in the application, delay of 25 days in re-filing the present appeal is condoned.

The application stands disposed of accordingly.

RSA No. 2105 of 2012

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiff-respondent (herein after to be referred as 'the respondent') was decreed.

The respondent was working as Sub Inspector under the appellant. He was charge sheeted by defendant Nos. 1 and 2, to which he gave his reply. However, the appellant penalized the respondent by imposing penalty of stoppage of five increments with future effect. The defendants have not called the respondent before passing impugned orders and accepted the report of the Inquiry Oficer, who has not considered the reply and evidence of the respondent, as the respondent was on leave on the crucial day of loss of stamps. The respondent preferred the appeal against the order penalizing him by imposition of penalty of stoppage of five increments with future effect, who ordered to reduce the punishment to stoppage of three increments and recovery of Rs.11,250/-. The respondent was not personally heard.

Upon notice, the defendants filed written statement and admitted that the respondent filed a reply to the charge sheet, which was considered by the appointing authority. The punishment orders have been passed after following entire procedure. It was denied that the respondent was issued charge sheet on the ground of misconduct and for causing pecuniary loss to the department i.e amount of Rs.45,000/- and violated the rules and breaching the discipline of office. He was afforded full opportunity to file the reply to charge sheet and to cross examine the witnesses of the Management and to lead his own evidence.

After hearing learned counsel for the appellant, the instant appeal is devoid of any merit and deserves dismissal.

Both the Courts decreed the suit of the appellant on the ground that Kans Raj Sub Inspector received tickets from TSVC Branch Section on 15.05.1998, vide docket No. 8375. Kans Raj, Sub Inspector, Kesar Singh, Harbans Singh and Kesar Singh were on duty from 15.05.1998 to 22.05.1998 for further issuance of these tickets to the conductors. On 22.05.1998, Kans Raj and Harbans Singh made report regarding regarding missing of the tickets. Thereafter, the departmental proceedings were initiated against all the above said four officials. As per the charge sheet served upon the respondent, it revealed that he was charge sheeted on the allegations that on 22.05.1998, Kans Raj Sub Inspector made report that tickets worth Rs.20,000/- of the denomination of Rs.20/- bearing series 284001 to 285000 were found missing and ten copies of series bearing Sr. No. 374001 to 375000 of denomination of Rs.25/- valued for Rs.25,000/- were found missing. Inder Singh Inspector submitted report in that regard on 26.05.1998. In the charge sheet, there is no specific allegations against the respondent. Reference has been made to the judgment titled as ***Union of India v. Gyan Chand Chattar 2009(2) Apex Court Judgments 734 (S.C)*** wherein it was held that charges should be specific, definite and giving details of the incident which formed the basis of charges. No enquiry can be sustained on vague charges. Enquiry has to be conducted fairly, objectively and not subjectively.

Further, Kesar Singh was not on duty of booking during these days and there is no evidence that the loss took place during the duty of Kesar Singh.

Reference has been made to deposition of Surinder Singh Dhamija who deposed that on 26.05.1998 Inder Singh Sub Inspector made report regarding loss of above said tickets and also conducted inquiry from booking branch. These tickets have been lost during the duty of Kans Raj, Kesar Singh, Harbans Singh and Kesar Singh and due to this fact, these persons are responsible. He proved his report dated 26.05.1998. Thus from the statement of Surinder Singh, it is not established with certainty that the tickets were in the custody of Kesar Singh, when the same were lost and that the tickets were ever remained in the custody of the respondent.

As per the inquiry file, Kesar Singh performed duty on 16.05.1998 and evening of 17.05.1998. The loss of tickets was detected on 21.05.1998 and 22.05.1998 and therefore, there is nothing to show that these tickets were found missing on 16.05.1998 and 17.05.1998. However, in the impugned orders, Disciplinary Authority and Appellate Authority have observed that the charges against the respondent have been proved by inquiry officer. These observations of both the authorities are also not in tune with the findings recorded by the Inquiry Officer.

Both the Courts below rightly decreed the suit of respondent. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

06.08.2015 **(RITU BAHRI)**
G Arora **JUDGE**