

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

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RSA No.3891 of 2012 (O & M)

Date of Decision:05.10.2015

Amrik Singh

....appellant

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.Ramneek Vasudeva, Advocate
for the appellant

ARUN PALLI, J.(ORAL):-

Suit filed by the plaintiff was dismissed by the trial Court vide judgement and decree dated 12.10.2011. As even the appeal preferred against the said decree failed, and, was dismissed on 07.04.2012, the plaintiff is before this Court, in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In a suit filed by the plaintiff, he prayed for a declaration that the order dated 29.12.2004, rendered by Deputy Commissioner, Rupnagar, vide which three increments of the plaintiff were stopped with cumulative effect and also the order dated 30.08.2005, passed by Commissioner, Patiala Division, Patiala, whereby even the departmental appeal preferred by the plaintiff was since dismissed, were wholly illegal, unlawful and were rendered in apparent breach of

the principles of natural justice. A decree for mandatory injunction was claimed, directing the respondents to release the said increments along with the interest.

Concededly, the plaintiff was awarded a minor punishment of "censure" vide order dated 17.04.2003, as despite the instructions dated 24.02.2003, issued by the State Election Commissioner, Punjab, to delete the names of trainees as also staff of Sangeet Vidyalaya for Blind from the voters list, plaintiff deliberately sat over the matter for extraneous consideration. Election was slated to take place on 09.03.2003. And it was only when a complaint was made against him to the SDM, instructions issued by the Commission were given effect to, on 04.03.2003. For the punishment of censure was found to be inadequate to the gravity of the misconduct, pursuant to a letter dated 29.01.2004, issued by the State Election Commission, Punjab, the matter in issue was reviewed by the competent authority. As a result, a departmental inquiry was initiated against the plaintiff and having been found guilty, vide order dated 29.12.2004 his three increments were stopped with cumulative effect. Departmental appeal preferred against the said order was dismissed on 30.08.2005. So much so, even the revision petition carried against the said orders was also dismissed by the Financial Commissioner (Revenue) on 19.01.2007. Not just that, plaintiff assailed all these orders vide Civil Writ Petition No.6724 of 2008, before this Court, which too was dismissed on merits on 24.04.2008. Even otherwise, on an analysis of the matter in issue and the evidence on record, both the Courts concurrently concluded

that the plaintiff was indeed found guilty of an alleged misconduct. The order of punishment was preceded by a regular departmental inquiry. The inquiry was held to be fair and proper, as the petitioner was afforded due and adequate opportunity to defend himself. The plea set out by the plaintiff that he having been awarded a minor punishment of censure vide order dated 17.04.2003, could not be punished twice, for the same cause, vide another order dated 29.12.2004, was also rightly rejected. Concededly, the effect of the order dated 17.04.2003 vide which plaintiff was warned, was never given effect to, in his service book. He never suffered the said punishment. Pursuant to a letter dated 29.01.2004, issued by Election Commissioner, Punjab, the matter was reviewed by the punishing authority and having found the plaintiff guilty of serious misconduct, he was awarded a major punishment. Thus, it could not be maintained that he was punished twice for the same wrong.

Learned counsel for the appellant could not point out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from any material illegality.

Be that as it may, ex facie, the present suit, post dismissal of the writ petition on 24.04.2008, was barred in law. Learned counsel for the appellant failed to show as to how could such suit even lie after the matter was examined by this Court on merits.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law to interfere with the

decree being assailed in the present appeal. Ex facie, the suit instituted by the plaintiff and thereafter, the appeal, was nothing short, but an abuse of process. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

05.10.2015*neenu***(ARUN PALLI)
JUDGE**