

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4545 of 2012 (O&M)

Date of Decision.11.09.2015

Raghubir Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

Present: Mr. Sanjiv Gupta, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The appeal is at the instance of a Forest Guard who was proceeded against a departmental enquiry for charges of dereliction of duty and for causing loss by making possible five old trees and five new trees to be cut in an area where he was supervising. The Enquiry Officer found that he had connived with some poachers and had allowed for fresh trees to be cut which if they had grown would have yielded higher returns. He found, therefore, that his omission caused loss but at the same time he also returned a finding that there had been no dereliction of duty. The punishing authority took the loss factor as assessed by the Enquiry officer to be sufficient to render him liable for punishment which involved stoppage of two annual increments with immediate effect.

2. It was a matter of fact that trees which were cut both old and new had been sold in auction and amount of over ₹ 35,000/- had

been collected by such sale. The department was, therefore, trying to recover its own loss and the contention by the employee was that if there had been no dereliction of duty and if the value of the trees cut had also been made good by auction, there could have been no punishment inflicted upon him. It is also a case where the punishment authority was not striking a dissent to the report given by the Enquiry Officer that there has been no dereliction of duty. The action of the departmental authority was brought in challenge before the Civil Courts where the plaintiff was failed. The second appeal is against the dismissal of the suits.

3. If there had been a finding by the Enquiry Officer that the plaintiff's action resulted in fresh trees to be cut and caused loss by the tress being not allowed to grow which could have yielded a better return and the loss was attributed to the plaintiff's connivance with the persons who had cut the trees, there was enough material for them to say that there had been an actionable wrong by an employee in service and he was liable to be punished. It is merely play in semantics that the Enquiry Officer did not find the employee to be guilty of dereliction of duty but at the same time he was saying that there had been a connivance on his part with persons who had cut the tress and caused the loss. Either way, whether there had been specific event of dereliction of duty or by his own action of connivance there was loss of fresh trees to be cut, there is enough for the authority to impose punishment. Extent of intervention for the Court will be only to see whether the punishment inflicted is so capricious and oppressive that it shocks the judicial conscience. I will not make such inference when the

punishment is meted out by the punishing authority after due enquiry. I do not think that there is any substantial question of law for consideration. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 11, 2015
Pankaj*