

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 5076 of 2012 (O&M)

Date of decision : May 15, 2015

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Dr. Ram Singh Jaura

.....Appellant

Versus

State of Punjab through District Collector, Bathinda
and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. A.S Ahluwalia, Advocate for the appellant.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

Appellant-plaintiff (hereinafter referred to as 'the plaintiff') has come up in regular second appeal against the judgment dated 20.8.2009 passed by the Additional Civil Judge (Senior Division), Bhatinda and the judgment dated 31.10.2011 passed by the Additional District Judge, Bathinda, whereby an appeal against the judgment of the trial Court was dismissed. Vide the trial court judgment suit of the plaintiff for declaration that order dated 20.3.2002 and further order dated 29.8.2003 passed by defendant no.2 are illegal, null and void was dismissed.

The plaintiff was charge sheeted on 6.11.1995 by the Department of Health and Family Welfare, Punjab. His reply to the

charge sheet was found unsatisfactory. Enquiry Officer was appointed and submitted his report dated 6.3.2000. Copy of the enquiry report was sent to the plaintiff and he submitted his reply and the Secretary vide order dated 20.3.2002 (Ex.P-1) dismissed him from service and his appeal was dismissed thereafter on 29.8.2003 (Ex. P-2) and order was received by the plaintiff through Civil Surgeon, Faridkot.

Upon notice, respondents-defendants (hereinafter referred to as 'the defendants') contested the suit and filed written statement, wherein it was admitted on merits that plaintiff was charge sheeted vide letter dated 6.11.1995 by the Government. Plaintiff did not file reply to the said charge sheet. The enquiry officer submitted his report dated 18.2.2000. The said report was examined at length and copy of same was sent to the plaintiff vide letter dated 6.3.2000 but the plaintiff did not file any reply in that regard. On the application of the plaintiff to join duty, he was allowed to join vide order dated 26.4.2000 by the Secretary, Health and Family Welfare, Punjab, Chandigarh. Plaintiff joined the duty on 29.4.2000. Plaintiff also remained absent from duty w.e.f 29.9.2001 to 7.1.2002 without getting the leave sanctioned.

Plaintiff was absent from duty w.e.f 2.7.1993 and had not obeyed the orders of the higher officers and was indulging in private practice. After being served charge sheet, plaintiff did not choose to file reply to the charges. Vide notice Ex. P-7, the plaintiff was informed that he should appear before the enquiry officer on

4.4.1997. Second notice Ex. P-10 was sent to the plaintiff to appear on 23.9.1997 but plaintiff failed to appear before the enquiry officer. Thereafter notice Ex. PB was sent to the plaintiff to appear before the enquiry officer on 3.2.1998 and ultimately enquiry officer issued public notices Ex. P-17 and Ex. P-18 where plaintiff was asked to appear before the enquiry officer on 11.11.1998. Notices Ex. D1 and Ex. D-2 were duly published in the newspaper. Plaintiff did not appear before the enquiry officer and he was proceeded against ex parte and thereafter the report was submitted Ex. P-4. Despite various notices issued, the plaintiff did not participate in the enquiry proceedings and in such event principle of natural justice was deemed to have been waived and plaintiff was estopped from raising the question of non-compliance of principle of natural justice.

In the order of dismissal, it is mentioned that the plaintiff remained absent from duty w.e.f 2.7.1993. It is correct that plaintiff rejoined on 29.4.2000 and he remained in service till 18.4.2002. Plaintiff also remained absent from duty w.ee.f 29.9.2001 to 7.1.2002. He joined his duty again on 8.1.2002 and absented again on 10.1.2002. After being absent from duty from 2.7.1993 till 29.4.2000, the plaintiff cannot take any advantage of rejoining the service on 29.4.2000 for a very short period. There is no infirmity in the order of dismissal and the same has been passed after holding a regular enquiry and after giving due opportunity to the plaintiff.

In view of all that has been discussed above, there is no infirmity or illegality in the judgments passed by the courts below. No

substantial question of law arises for consideration in this regular second appeal. Hence the same is dismissed.

May 15, 2015
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(**RITU BAHRI**)
JUDGE