

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 5378 of 2012 (O&M)

Date of decision: 13.08.2015

Sucha Singh

...APPELLANT

VS.

Government of Punjab and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Eshjyot Walia, Advocate,
and Mr. Harit Sharma, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J.

Present is an appeal where challenge is to the judgments passed by the Courts below, whereby the suit for declaration preferred by the appellant-plaintiff for declaring the order of punishment dated 25.04.2003 and the rejection of the appeal vide order dated 23.02.2004 as illegal, unlawful and not binding upon the appellant-plaintiff, stands dismissed.

It is the contention of the counsel for the appellant that during the course of the departmental proceedings, which were initiated against the appellant, no passenger was examined. She contends that the appellant being a Bus Conductor has been charge-sheeted for the mis-conduct of embezzlement and commission of a fraud of ₹ 104/- on 13.10.1999 when the checking staff detected the said fraud as the appellant had not issued the tickets to some of the bus passengers of the Punjab Roadways. She further

contends that while passing the order of dismissal, the past service of the appellant has been taken into consideration whereas no notice qua the said aspect was ever served upon the appellant. She, therefore, contends that the judgments passed by the Courts below deserve to be set aside and the suit of the plaintiff decreed. Reliance has also been placed upon the judgment of this Court in *Gian Chand vs. Presiding Officer, Labour Court, Patiala and another*, 2011 (2) SCT 272.

I have considered the submissions made by the counsel for the appellant and have gone through the records of the case.

As far as the jurisdiction of the Civil Court in interference in service matter and that too where a departmental enquiry, which has been held, is limited to the extent where there is any violation of any Statutory Rules or Instructions. In the present case, there appears to be none. It is admitted by the appellant-plaintiff himself that he was on duty as a Conductor on a Punjab Roadways bus on 13.10.1999. He also admitted that the bus was checked by the Inspecting Staff and a report with regard to fraud of ₹ 104/- was made against him. The appellant admitted the facts of suspension in service, the charge-sheet issued to him, the submission of the reply to the charge-sheet and thereafter, the regular departmental enquiry held against him where he participated and even produced the evidence. There being no violation of any of the Statutory Rules/Instructions in the holding of the departmental enquiry against the appellant-plaintiff, the Court Could not have interfered in this regard.

As regards the assertion of the counsel for the appellant with regard to the appellant-plaintiff having not been given notice with regard to the earlier adverse records of the plaintiff-appellant but the same having

been taken into consideration while passing the impugned dismissal order, cannot be a ground in itself to nullify or hold the order of dismissal to be illegal as no such notice is required to be served upon the employee as this is his record of service which he is already aware of and the punishing authority has only taken the same into consideration for the purpose of determining the quantum of punishment to be imposed upon an employee. It is not in dispute that as per the report of the Enquiry Officer, the charges levelled against the plaintiff-appellant have been duly proved.

As regards, the submission of the counsel for the appellant that none of the passengers, who have not been issued the tickets, has been examined in the departmental proceedings, suffice it to say that it is not a criminal trial where hearsay evidence is not admissible. During the enquiry, it has been duly proved by the Inspecting Staff in its report and thereafter, during the evidence, that he had not issued the tickets to the passengers and the explanation, which was given, was that the bus was overcrowded and, therefore, he could not issue the said tickets. Unfortunately, this stand of the appellant-plaintiff has not been accepted either by the Enquiry Officer or the punishing authority.

The reasoning adopted by the authorities is justified and correct. The judgment relied upon by the counsel for the appellant-plaintiff Gian Chand's case (supra) would not hold the field in the light of the judgment of the Supreme Court in the State of Haryana and another vs. Rattan Singh, 1977(2) SCC 491, where in the case of a bus Conductor, in the domestic enquiry, the statements of the passengers were not recorded, the Court held that in a domestic enquiry, strict rules of evidence may not apply and hearsay credible evidence is permissible. Logical probative

material can be relied on and sufficiency of evidence in proof of finding is enough. In the case in hand, this is so.

In view of the above, finding no merit in the present appeal, the same stands dismissed. It may be added that no substantial question of law is involved in this case which would merit admission of this case.

August 13, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE