

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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*C.M. No. 3187-C of 2013 and
RSA No. 1192 of 2013 (O&M)*

Date of decision: 08.10.2015

Mohinder Singh

....APPELLANT

VERSUS

Pepsu Road Transport Corporation and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Harshit Jain, Advocate,
for the applicant/appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)
C.M. No. 3187-C of 2013

Prayer in this application is for condonation of delay of 26 days
in re-filing the appeal.

For the reasons mentioned in the application, which is duly
supported by an affidavit of the counsel for the appellant, the same is
allowed. Delay of 26 days in re-filing the appeal is condoned.

RSA No. 1192 of 2013

Challenge in this appeal is to the judgment and decree passed
by the Civil Judge (Senior Division), Sangrur dated 03.09.2008, by which
the suit for declaration to the effect that the order dated 02.03.2005 passed
by the punishing authority dismissing the appellant from service, order
dated 27.04.2005 passed by the Appellate Authority rejecting his appeal,
recovery notice dated 11.08.2004 and enquiry report being null and void as
the same are violative of the Statutory Rules and for re-instatement of the
appellant-plaintiff with effect from the date of his termination with all
consequential benefits along with interest, was dismissed and the appeal
preferred against the said order has been dismissed by the District Judge,

Sangrur on 04.09.2012.

2. It is the contention of the learned counsel for the appellant that the appellant-plaintiff was working as a Conductor in the Pepsu Road Transport Corporation. A notice for recovery dated 11.08.2004 was issued to him, to which he responded. Thereafter a charge-sheet has been issued on 15.09.2004, which is on a totally different aspect i.e. with regard to the embezzlement of an amount of ₹ 51 resulting in causing loss to the department and for recovery of the said amount. Allegations were also made with regard to the non-issuance of the tickets to the passengers travelling in the bus and for causing loss of ₹ 2635.20 to the respondent-Corporation by depositing less route receipts during the month of May, 2004 remaining negligent in duty, committing misconduct and for violating rules and discipline. He contends that after issuance of the charge-sheet, an Enquiry Officer was appointed and during the proceedings, the appellant admitted all the charges levelled against him in writing. On the basis of the admission made by the appellant-plaintiff, the Enquiry Officer returned his finding and on the basis of the said finding, a show cause notice was issued to the appellant-plaintiff for dismissal from service along with copy of the enquiry report, which was responded to by him as to why the extreme punishment of dismissal has been passed against him. The dismissal order was passed on 02.03.2005 and the statutory appeal was dismissed on 27.04.2005.

3. Counsel contends that the inception of the charge-sheet is not as per the Statutory Rules as he was only given a notice for recovery and at no stage, prior to the issuance of the charge-sheet, he was given any show cause notice with regard to the other charges. He thus, contends that the

issuance of the charge-sheet and the subsequent proceedings cannot sustain and deserves to be set aside.

4. This contention of the learned counsel for the appellant cannot be accepted as there is no violation of the Statutory Rules as such. It is an admitted case that a charge-sheet was issued to the appellant, in which an Enquiry Officer was appointed and it is before the Enquiry Officer that the appellant-plaintiff admitted all the charges in writing. On the basis of the admission of the charges, the Enquiry Officer submitted his report to the effect that all the articles of charges are proved. Thereafter, a proper show cause notice was issued to the appellant-plaintiff along with the enquiry report, to which he responded and on consideration thereof, the punishing authority proceeded to pass the order of dismissal. It thus, cannot be said that any of the Statutory Rules have been violated as regards the holding of the enquiry is concerned. The order passed by the punishing authority being in accordance with law does not call for any interference by this Court especially when the appellant-plaintiff has admitted all the charges, which were levelled against him.

5. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be just and reasonable, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law, which arises in the present appeal requiring consideration of this Court.

6. In view of the above, finding no merit in the present appeal, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

October 08, 2015

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