

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

RSA No.3911 of 2013(O&M)
Date of Decision.16.11.2015

Naresh Kumar, Head Constable

.....Appellant

Versus

Haryana State through the Collector, Gurgaon, District Gurgaon and
others

.....Respondents

Present: Mr. Puneet 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 legal representatives of the deceased plaintiff, who was a Constable, are the appellants before this Court. The plaintiff had filed the suit to challenge the departmental proceedings which were initiated against him and the result of such enquiry that found him guilty of the charges levelled against him. The charge was that he had been under the influence of liquor and was guilty of abusing and threatening the persons of the police line of Gurgaon when he was on duty. The department brought at the enquiry persons who had claimed to have known the conduct of the plaintiff under the influence of liquor but the contention of the plaintiff was that he had been a patient used to taking cough syrup and it was even admitted by the doctor who was examined by the department that the consumption of cough syrup could emanate the smell of alcohol. Two witnesses were examined by the plaintiff

himself before the Enquiry Officer PW2 and PW3 who had spoken about the fact that they knew that the plaintiff used to consume cough syrup. The plaintiff would contend in suit that the Enquiry Officer and the Punishing Authority failed to take note of serious lapse of evidence namely that the person whom he was said to have abused was not examined and that there had not been even a complaint by any person that he had abused him. Even the two persons, who were said to have heard the plaintiff making abuses were not even examined. The finding rendered by the Enquiry Officer was not proper and the punishing authority and the appellate authority did not consider his case properly.

2. The limit of interference for Civil Court in respect of departmental proceedings will be limited to examining only whether there is any defect in the procedure that violated natural justice which gave place to a wrong decision. There was no point made by the plaintiff that the plaintiff did not have a fair trial before the Enquiry Officer and that he had been subjected to any handicap from securing a trial at the enquiry. The other area of interference could be situations where important evidence given by the witnesses had been discarded. The only point which the plaintiff would state with reference to such omission was the so-called statement elicited from the doctor that even consumption of cough syrup would give out a smell of alcohol. Any one understands the difference between the person who was under the influence of liquor and person who was merely taking a cough syrup. The conduct that accompanies a drunken state is very different from person who is caught into paroxysm of cough. The Civil Court cannot treat itself as a Court of appeal against the decision rendered by the

departmental authorities and if the two fallibilities pointed out above do not exist, there will be no scope for interference.

3. The Court would also make an interference if there was any punishment meted out to an employee which is oppressive or capricious that it could shock judicial conscience. In this case the Constable who ought to be a guardian of law was actually breaching the law by his unruly behaviour and if the department only inflicted him with some punishment imposing cut in pay, I would think that there is nothing so serious about the quantum of punishment that would require a Court's intervention.

4. The plaintiff himself has expired and the legal representatives would prosecute the appeal only to ensure that the terminal benefits which would accrue if he had not been inflicted of such punishment would go to their benefit. I am afraid that there is nothing very serious at issue on point of law for consideration in the second appeal. It is dismissed as involving no substantial question of law.

(K. KANNAN)
JUDGE

November 16, 2015
Pankaj*