

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 5077 of 2013 (O&M)

Date of decision: 14.10.2015

Ex-Driver No. 810717638/CT Gurnam Singh

....APPELLANT

VERSUS

Union of India and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Pal Singh Rehan, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Gurdaspur dated 05.09.2005, vide which the suit for declaration to the effect that the order of dismissal of the appellant from service and the order of the Appellate Authority dismissing the appeal being violative of principles of natural justice, illegal, unlawful, ultra-vires, unconstitutional, non-speaking, cryptic and punitive in nature, stands dismissed, against which the appeal preferred by the appellant-plaintiff stands dismissed by the District Judge, Gurdaspur on 02.07.2013.

2. The appellant-plaintiff was appointed as a driver with the Central Reserve Police Force on 24.06.1981. He has a chequered service

history, as has been pointed out in the judgment passed by the Lower Appellate Court, where as many as eight punishments have been imposed upon him starting from the year 1985 till 16.01.2001 and thereafter, his dismissal has ensued because of his mis-conduct and mis-behaviour for being absent from duty from 07.05.2001 to 08.05.2001 forenoon and consumption of alcohol outside the campus. A regular departmental enquiry was held against him and on the basis of the findings recorded by the Enquiry Officer, where the appellant-plaintiff admitted his fault in the departmental enquiry with regard to his non-taking permission prior to leaving the campus and further by leading evidence, where the witnesses have deposed against him establishing that mis-conduct, as has been attributed to him, stood proved, he was dismissed from service in July, 2001. The Appellate Authority has also not accepted his appeal.

3. It is the contention of the learned counsel for the appellant that during the enquiry proceedings, the doctor, who had examined the appellant-plaintiff at the time when the appellant was alleged to have consumed liquor, has not been produced and because of the non-production of the doctor in the enquiry proceedings and there being no other corroborative evidence except for the statement of a departmental official, the findings recorded by the Enquiry Officer cannot be said to be justified. He has relied upon the judgment of this Court in the case of **Hakikat Singh vs. Union of India and others**, 2013 (3) SCT 231, where this Court interfered by holding that the finding recorded by the Enquiry Officer was not correct. His further contention is that the punishment imposed upon the appellant-plaintiff is disproportionate to the mis-conduct, which has been proved against him. He, accordingly, contends that the impugned judgments

and decree deserve to be set aside and the suit preferred by the appellant-plaintiff be decreed.

4. I have considered the submissions made by the counsel for the appellant and have gone through the impugned judgments with his able assistance but am not able to accept his contentions.

5. It is a settled law that a Civil Court cannot interfere in the findings recorded by the Enquiry Officer unless the Statutory Rules have been violated or not complied with and further where the findings are based on no evidence. Present is a case where ample evidence has been brought on record before the Enquiry Officer in the form of statements of the witnesses of the department, who had deposed against the appellant-plaintiff. Merely because the doctor, who had examined him at the time when he was under the influence of liquor, was not produced in the enquiry proceedings, cannot be a ground to interfere in the enquiry report findings or the departmental proceedings especially when there is other evidence to come to a conclusion that the allegations are correct.

6. It may be added here that the appellant himself had admitted his guilt before the Enquiry Officer with regard to the fact that he had left the campus without proper intimation/permission. The judgment, on which reliance has been placed by the learned counsel for the appellant in **Hakikat Singh's case (supra)**, is not based upon the law, as has been settled up to the Apex Court, where it has been, in categorical terms, laid down that the Court does not sit as an Appellate Authority over the departmental proceedings and can only interfere in cases where there is violation of any Statutory Rules/Instructions or if it is a case where the findings are based on no evidence. The said judgment, therefore, cannot be made the basis for

granting relief, as has been prayed for in the present case. It may, however, be added that in the said case, it has been clearly observed that the delinquent employee had a long unblemished record of 13 years whereas in the case of the appellant-plaintiff, he has eight punishments in his credit, details of which have been mentioned in para-4 of the judgment of the Lower Appellate Court where most of them relate to consumption of liquor, mis-behaviour and leaving the campus without permission.

7. As regards the contention of the learned counsel for the appellant that the punishment of dismissal is disproportionate to the misconduct attributed and proved against the appellant-plaintiff, suffice it to say that the appellant is a driver and it appears that he is habitual to consumption of liquor. If he is retained in service, not only his life and the property of the Government would be at stake but that of the persons who would be travelling with him, would be at a great risk. The punishment, as has been imposed upon him by the respondents, is fully justified, which does not call for any interference by this Court.

8. 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 in the present appeal, which requires consideration of this Court.

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

October 14, 2015

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**