

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA No.1514 of 2015 (O&M)
Date of decision: 06.07.2015**

Darshan Singh

...Appellant

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raj Kaushik, Advocate,
for the appellant.

RITU BAHRI, J.

Plaintiff-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below i.e. Additional Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar and the District Judge, Shaheed Bhagat Singh Nagar, Nawanshahr, whereby his suit for declaration to the effect that the orders dated 31.08.2006 and 07.01.2008 passed by the Director, State Transport, Punjab and Joint Secretary, Transport Department, Punjab respectively were illegal, invalid, bad and non speaking, has been dismissed.

Darshan Singh-plaintiff (appellant herein) was employed as conductor in Punjab Roadways on 01.04.1981 and was posted in Nawanshahr Depot. Thereafter, he faced an enquiry, which was initiated on the charges that on 28.06.2003, he was on duty on Nawanshahr-Adampur bus. The said bus was checked by the checking staff in the area of Banga at 3.35 P.M. and he was found to have received Rs.12/- from two passengers without issuing any tickets. Ultimately, vide order dated 31.08.2006 passed by the Director,

State Transport, Punjab, penalty of stoppage of one increment with cumulative effect was imposed upon the plaintiff. Appeal against the said order was dismissed by the Joint Secretary, Transport Department, Punjab, vide his order dated 07.01.2008. As per plaintiff-appellant, the Enquiry Officer did not have any authority to hold the enquiry and he played a role of prosecutor throughout the enquiry proceedings. The Enquiry Officer has ignored the evidence led by the plaintiff in defence.

Upon notice, the defendants-respondent filed written statement and controverted the allegations levelled by the plaintiff-appellant.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled to the decree of declaration to the effect that the order CA 5/24016-18 dated 31.08.2006 passed by Director, State Transport, Punjab, is illegal, invalid, bad, non-speaking, unconstitutional, cryptic against the provisions of Civil Services Rules and is liable to be set aside? OPP
2. Whether the plaintiff is entitled to get the pay, emoluments and other benefits admissible to the post of conductor from time to time? OPP
3. Whether the plaintiff is entitled to mandatory injunction directing the defendants to pay the arrears of pay withheld pursuant to the impugned orders of stopping the increment with future effect with interest from 31.08.2006 to the payment @ 12% per annum? OPP
4. Whether the Court has no jurisdiction to try the present suit? OPD
5. Whether the suit is not maintainable in the present form? OPD
6. Whether the plaintiff has come to the Court with unclean hands? OPD

7. Whether the plaintiff has no cause of action to file the present suit? OPD

8. Relief.

Trial Court, after going through the evidence led by the parties, dismissed the suit. The lower appellate Court affirmed the findings returned by the trial Court and dismissed the appeal. Hence, this appeal.

As per enquiry report (annexure A-4) placed on record by the appellant, a checking was conducted by the checking staff when the plaintiff-appellant was on duty at 15.35 hours. 30 passengers were travelling in the bus. Two passengers had paid Rs.12/- (Rs.6/- per passenger) for the journey from Nawanshahr to Banga, but they had not been issued any tickets. During the enquiry, Mr. Surinder Kumar Sidhu, Inspector, Punjab Roadways, Nawanshahr appeared as official witness and confirmed the report submitted by him. One Tarsem Singh son of Khuram Rai, resident of village and Post Office, Damunda, Tehsil and district, Jalandhar, appeared as defence witness on behalf of the employee i.e. present appellant. He stated that on 26.08.2003, he along with his daughter had travelled in Punjab Roadways Bus No.9303 from Nawanshahr to Phagwara. He had taken two tickets. When the bus was checked at by the checking staff at Banga, two passengers could not find/produce their tickets. They told the checking staff that they had got the tickets, but the same had been missing somewhere. The conductor also stated that he had issued tickets to them. But, the checking staff did not listen to the statement made by the passengers or the conductor. Subsequently, the tickets were found from those passengers. The plaintiff-appellant also made similar statement when he appeared before the Enquiry Officer. The Enquiry Officer concluded the enquiry by observing that the statement given by the defence witnesses did not carry any truth, as the

tickets were subsequently placed before enquiry officer. The said tickets of Rs.6/- each, which were produced by the conductor, were carrying Nos. 630115 and 630122. These tickets were issued to two different persons and there was difference of seven numbers in these tickets. It was not possible that those two passengers had misplaced the said tickets at the same time. Hence, the version of the plaintiff-appellant was not found to be truthful. Thereafter, the impugned punishment order dated 31.08.2006 was passed. Appeal against the said order was filed before the Joint Secretary, Transport Department, Punjab, Chandigarh, which was dismissed vide order dated 07.01.2008. No further appeal was filed against the order dated 07.01.2008.

In view of the above, there is no scope for interference in the punishment order dated 31.08.2006 passed by the competent authorities, as the version of the defence witnesses has been disbelieved.

After going through the impugned judgments, no illegality, much less perversity has been found therein warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

(RITU BAHRI)
JUDGE

06.07.2015
ajp