

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 811 of 2013 (O&M)
Date of decision: 6.7.2015

Kali Ram Naidu

.. Appellant

v.

Vijay Kumar Chauhan and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. N. C. Kinra, Advocate for the appellant.

...

Rajesh Bindal J.

The plaintiff has filed the present appeal impugning the judgments and decrees of both the courts below, whereby the suit filed by him for claiming damages, was dismissed.

In the case in hand, the plaintiff, who was working as Mandi Supervisor in the office of Market Committee, Jind, at the time when allegedly cause of action arose to him for the first time, retired as Executive Officer, Market Committee, Jind. On account of certain allegations against him, he was suspended on 20.2.1990 but was reinstated on 30.6.1991. Charge-sheet was issued to him. Finally, punishment of stoppage of four increments with cumulative effect was awarded to the appellant vide order dated 28.3.1997. The appellant preferred appeal against that order, which was accepted on 20.9.1999. Thereafter, the appellant was restored all the benefits. The period of suspension was also regularised. The present suit claiming damages of ₹ 10,00,000/- on account of alleged harassment was filed on 18.3.2002. Both the courts below having dismissed the same, the appellant is before this court.

Learned counsel for the appellant submitted that the appellant was not at fault at any stage. As a result of his illegal suspension for a period of about one year and four months, he was transferred from Jind to Panipat and other places. He remained away from his children for almost 10 years. He lost his reputation. Two additional increments, which were due to him in the years 1991 and 1992 were withheld upto 19.7.1996. He had to visit Chandigarh for hearing of the appeal number of times and spend money. As finally the appellant was not found to be guilty of any charge, he deserved to be compensated. Both the courts have failed to appreciate the evidence produced by the appellant on record. The judgments and decrees deserve to be set aside.

After hearing learned counsel for the appellant, I do not find any reason to interfere in the present appeal. Suspension is not a punishment. Having found certain allegations against the appellant during his service, he was placed under suspension. It is admitted that he was paid subsistence allowance for that period. Charge-sheet was issued to him and finally he was inflicted punishment of stoppage of four increments with cumulative effect. In appeal, the punishment was set aside. Thereafter, whatever was legally due to the appellant, was released to him. The mere fact that the appellate authority had set aside the punishment inflicted upon the appellant shows that he had been granted fair opportunity without any bias by the concerned authority.

It is evident from the paper book that the appellant is a resident of Jind. He is trying to raise a grievance that on account of his suspension, he had to remain posted at different places and stay away from his mother and children for a period of about 10 years, which shows that the appellant, in fact, wanted to remain posted at Jind, which is his home town, for ever. Transfer is an incidence of service. No one can claim a right to remain posted at one place, but apparently the appellant had been able to manage his posting at Jind as the period, to which the incident relate, and at the time of retirement also, he was posted at Jind. The details of other period are not available on record. Merely because an employee, who was suspended in anticipation of a departmental enquiry and is finally exonerated, normally

cannot be permitted to claim that the authorities being biased, he is entitled to damages. The allegations of *mala fides* are easy to level but difficult to prove. In the case in hand, the material produced on record by the appellant does not prove the same.

For the reasons mentioned above, I do not find any reason to interfere with concurrent findings of fact recorded by both the courts below. No substantial question of law arises in the present appeal. The same is, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

6.7.2015
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