

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

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Regular Second Appeal No.3415 of 2015 (O&M)
Date of Decision: October 21, 2015

The State of Punjab and others

...Appellants

Versus

Jang Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Neeraj Sharma, Assistant Advocate General, Punjab,
for the appellants-State.

AUGUSTINE GEORGE MASI, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Ferozepur, dated 06.09.2013, by which the suit for declaration filed by the respondent-plaintiff to the effect that the order dated 08.12.2009 passed by the Secretary, Government of Punjab, Rural Development and Panchayat Department, Punjab, Chandigarh, imposing penalty of recovery of ₹2,95,010/- from his retirement gratuity being illegal and against the provisions of the Punjab Civil Services Rules, stands decreed and the appeal preferred by the appellants-defendants against the same dismissed by the District Judge, Ferozepur, on 20.04.2015.

2. It is the contention of learned counsel for the appellants-defendants that the Courts below have primarily proceeded to decide the suit in favour of the respondent-plaintiff on the ground that the order of punishment has been passed by the Appellate Authority and not the Punishing Authority as the order indicates the designation of the authority passing the same as Secretary, Government of Punjab, Rural Development and Panchayat Department, Punjab, Chandigarh. His further contention is

that the other ground, which has been pressed into service, is that certain materials which have been relied upon while passing the impugned order of punishment, have not been supplied to the respondent-plaintiff. He contends that the first ground i.e. the passing of the order by the Appellate Authority rather than the Punishing Authority cannot sustain as the officer, who had passed the order, was holding the rank of a Secretary but was holding the post of the Director, Rural Development and Panchayat Department, Punjab, and, therefore, was the Punishing Authority. As regards the other ground i.e. the non-supplying of certain materials, he contends that no prejudice has been caused to the respondent-plaintiff as he was well aware of the findings recorded by the Inquiry Officer as the same was supplied to him when he was issued a show cause notice and only the comments of the Controller, Panchayati Raj (Finance) as well as the Additional Deputy Commissioner (Development), Ferozepur, were sought for and, therefore, the said ground also cannot sustain.

3. I have considered the submissions made by learned counsel for the appellants-defendants and on going through the judgments passed by the Courts below, even if the contention of the learned counsel for the appellants-defendants is accepted that the order of punishment has been passed by the competent authority i.e. the Director, Rural Development and Panchayat Department, Punjab, however, the impugned order cannot be sustained in the light of the statement of Mohan Singh DW-1, who is an official of the department and during his cross-examination, he has admitted the fact that the comments were sought from the Controller, Panchayati Raj (Finance) as well as the Additional Deputy Commissioner (Development), Ferozepur, and the copies thereof were not supplied to the respondent-

plaintiff but the same was considered and relied upon while passing the impugned order. If that be so, the findings recorded by the Courts below that it would be in violation of the principles of natural justice, where the delinquent official is not provided with the material, which is used against him, cannot be faulted with.

4. Both the Courts below have returned concurrent findings in detail after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

5. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.8281-C of 2015, stands disposed of as infructuous.

October 21, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE