

**C.M. NOS.5218-5219 C OF 2014 &
R.S.A. NO.2141 OF 2014**

:{ 1 }:

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

DATE OF DECISION: AUGUST 18, 2015

Surjit Singh

.....Appellant

VERSUS

The Punjab State and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. Kehar Singh Hissowal, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.5218 C of 2014

Prayer in this application is for condoning the delay of 150 days in refiling the appeal.

Reason assigned for delay in refiling the appeal is that the file was misplaced in the office of the Advocate at the time of renovation work. However, when the applicant-appellant enquired about the fate of his case, then the counsel, with the help of his Clerk, traced out the file, which resulted in delay of 150 days in refiling the appeal. The application is supported by an affidavit of the Clerk of the counsel.

In view of the above, the present application is allowed.

Delay of 150 days in refiling the appeal stands condoned.

C.M. No.5219 C of 2014

Prayer in this application is for condoning the delay of 9 days in filing the appeal.

The reason assigned for filing the appeal beyond the period of limitation is that the file was misplaced in the office of the counsel as renovation work was doing on. The said application is supported by an affidavit of Clerk of the counsel.

In view of the above, the application is allowed and delay of 9 days in filing the appeal stands condoned.

R.S.A. No.2141 of 2014

Plaintiff-appellant, who was a Conductor in the Punjab Roadways, Depot No.1, Amritsar, had filed a civil suit for declaration to the effect that the order dated 01.08.2005 passed by the Director, State Transport, Punjab, Chandigarh, terminating his services and the order dated 08.08.2006 passed by the Additional Secretary, Transport, Government of Punjab, dismissing the appeal, are illegal, wrong, arbitrary, capricious, against the principles of natural justice and violative of the provisions of the Punishment and Appeal Rules. Mandatory injunction was also sought for reinstatement of the appellant-plaintiff alongwith all the benefits attached to his post alongwith 18% interest.

The suit preferred by the appellant-plaintiff was dismissed by the trial Court vide judgement and order dated 26.10.2010 on the ground that the orders of dismissal and rejection of appeal are in accordance with the Punishment and Appeal Rules and there being no violation, the declaration, as sought for, could not be granted. Even appeal preferred against the said order by the appellant stands dismissed by the Additional

District Judge (Adhoc), Fast Track Court, Amritsar, by judgement and decree dated 22.02.2013, which has led to filing of the present appeal.

It was the contention of counsel for the appellant-plaintiff that during the departmental enquiry, which was held against the appellant, the allegation, as levelled against him of misappropriation of an amount of ₹121/- for not issuing the tickets to the passengers in lieu of the amount collected from them, would be without any evidence on record as the statements of the passengers were not recorded during the departmental enquiry and the finding recorded by the Enquiry Officer on the basis of which the Punishing Authority proceeded to hold him guilty and passed the order of punishment, thus, cannot sustain. Further contention of counsel for the appellant is that the appellant is having 30 years of service to his credit, which has not been taken into consideration and a very harsh punishment has been imposed by the Punishing Authority, which has been reiterated by the Appellate Authority and the same requires interference by this Court.

The contention as raised by counsel for the appellant cannot be accepted in the light of judgement of Hon'ble Supreme Court reported as State of Haryana and another Vs. Rattan Singh, 1977 PLR 492, where it has been held that in a domestic enquiry, where a Bus Conductor of the State Transport Undertaking had not issued the tickets but collected the fare from certain passengers and their statements being not recorded, would not vitiate the domestic enquiry as the strict rules of evidence are not applicable. If logically probative material indicates sufficient evidence to prove that fares were collected but the tickets were not issued, the same would be sufficient for returning a finding of guilt against the delinquent employee.

Even hear-say credible evidence is permissible and can be relied upon.

Thus, the assertion of counsel for the appellant that the enquiry proceedings stand vitiated because of non-examining of the passengers deserves to be rejected.

As regards the contention of counsel for the appellant that quantum of punishment is on the higher side, suffice it to say that in a case of embezzlement/fraud, where an employee is required to maintain the accounts and to act fairly and uphold the confidence posed in him by the employer, if such a conduct is not adhered to, the said employee deserves strict action and punishment, which is permissible under the statutory rules. Thus, in the considered view of this Court, there is no illegality in the judgements and decrees passed by the Courts below, calling interference by this Court.

No substantial question of law is involved, which requires consideration of this Court in the present appeal. The appeal, therefore, stands dismissed.

**August 18, 2015
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**