

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3161 of 2014 (O&M)
Date of Decision.04.09.2015

Ramesh Kumar

.....Appellant

Versus

Punjab State Power Corporation Limited and othersRespondents

Present: Mr. Rose Gupta, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. Delay of 23 days in refiling and 31 days in filing the appeal is condoned.
2. The appeal is against the judgments of the Courts below dismissing the suit filed by the plaintiff challenging a claim for recovery based on the proceedings initiated by the department against him. There were charges initiated against the plaintiff who was a Clerk in the Government Stationery was that he had been responsible for causing loss of stationery to an extent of ₹ 1,82,460/- and for not keeping records in relation to the stationery which ought to have been there in his custody. The Enquiry officer who carried out the enquiry after serving notice came to provisional conclusion that the proof of actual loss of stationery had not been made but however, the plaintiff had been guilty of not maintaining appropriate records relating to the stationery. After the enquiry report was given, the disciplinary

authority, however, took note of several communications which had been issued by the defendant to the plaintiff calling for information regarding the stocks and the records which he ought to have maintained. The plaintiff was unable to give any response and the punishing authority, therefore, passed an order under Ex.D11 taking a view against the enquiry officer's report and holding that the plaintiff was actually responsible for having caused the shortfall in the stationery and held him responsible for the amount and issued the recovery order. It was this recovery order which was challenged before the Civil Court.

3. The Courts have made elaborate reference to the law on subject and have stated that the Court cannot treat itself as an appellate authority against the order unless there had been any violation of rules of natural justice. The Courts below have also observed that it was not incumbent on a punishing authority to completely accept only the enquiry officer's report and it can take a dissenting view and before such view is taken, notice must be given. Actually a notice had been given and it was also stated that at the time when suit was filed, he preferred an appeal and that appeal was not favourably considered.

4. The point that fell for consideration, therefore, was only whether the recoveries could be made in spite of the fact that the enquiry officer had not found any shortfall. I have already observed that the punishing authority took a different view and dissented from the view given by the enquiry officer. The argument advanced by the counsel before me that the enquiry officer's finding became final and it had not been challenged is meaningless, for, conduct of an enquiry is

preliminary to a final decision that a punishment authority will take and if the punishing authority found him guilty of having caused the loss, Court's intervention would be to examine only whether the order suffers from any error of procedure or substantive violation of rules of natural justice. Both the Courts below found that there was no such error and dismissed the suit.

5. I find that no substantial question of law is involved in the second appeal and the second appeal is dismissed.

(K. KANNAN)
JUDGE

September 04, 2015
Pankaj*