

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 3582 of 2014 (O&M)
Date of decision : March 27, 2015

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CCS Haryana Agriculturist University, Hisar
through its Vice Chancellor/RegistrarAppellants
and another

Versus

Dr. Satyendra Kumar
.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI
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Present: Mr. Vinod S. Bhardwaj, Advocate for the appellants.

Mr. Rose Gupta, Advocate for respondent.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

The appellants have come up in regular second appeal against the judgment dated 26.5.2014 passed by the Additional District Judge, Hisar whereby the appeals filed against the judgment and decree dated 12.8.2011 passed by the Civil Judge (Junior Division) Hisar were dismissed. Vide the trial Court judgment, the suit of the plaintiff-respondent Dr. Satyendra Kumar (hereinafter

referred to as 'the plaintiff') was partly decreed to the effect that orders dated 6.11.2002 and 25.10.2005 were set aside being illegal, null and void. However, the defendants-appellants (hereinafter referred to as 'the defendants') were given liberty to proceed against the plaintiff in accordance with principles laid down for conducting a regular inquiry.

Plaintiff, Dr. Satyendra Kumar was posted as a Soil Physicist in the Department of Soil Sciences of the Haryana Agriculturist University, Hisar (defendant no.1). He was granted the requisite approval by the Vice Chancellor of the University vide order dated 10.5.2000 to attend an International Conference on the challenges facing irrigation and drainage in the new millennium scheduled to be held at Colorado, USA from June 20-24, 2000 for oral presentation subject to condition that the expenses including traveling, boarding, lodging and registration fee etc. would be borne from the AHRD Project and that the period of absence of the teacher will be treated as on duty.

He participated in the conference and was awarded an US scholarship which paid his registration fee, lodging cost for meals and incidental expenses. The defendant-University paid a sum of Rs.1,05,520/- towards travelling allowance and Rs.18,770/- towards registration fee for attending the conference. After attending the Conference, plaintiff submitted the bill for balance payment on account of travelling allowance and registration fee to the University. He was charge sheeted on 14.1.2002 with the allegations that he

was guilty of lodging false claims/bills for registration fee and boarding/lodging and TA-DA to the tune of Rs.30,543.75 (TA-DA) and Rs.18,770/0 (registration fee and VISA fee). The plaintiff submitted his reply to the charge sheet explaining that on account of grant of scholarship cost of boarding lodging and registration fee was met out. He sought permission to resubmit his bills without such claims so that he could deposit a portion of 80% advance becoming thus surplus so as to get them adjusted as per University Rules. Thereafter a show cause notice was issued on 19.6.2002 to the plaintiff in which it was claimed that the plaintiff had become accountable for three more charges mentioned i.e (i) the plaintiff had virtually admitted the truth of the charges leveled against him (ii) there was nothing left for further inquiry and (iii) the charges being of serious nature, the vice-Chancellor was provisionally of the view to dismiss the plaintiff from the services and to recover all payments made to the plaintiff on account of registration fee, boarding, lodging and TA-DA. Plaintiff gave his reply to the show cause notice in which he clarified that the reply dated 15.2.2002 submitted by him has been wrongly interpreted as his admission of the allegations. He requested for a personal hearing and also to drop the show cause notice and proposed punishment to meet the ends of justice. The Vice Chancellor terminated the services of the plaintiff. The plaintiff submitted a mercy appeal which was considered by the Board of Management i.e defendant no.2 in its 205th meeting held on 23.12.2003 and found that it was a major penalty and a regular

enquiry should be got conducted. Accordingly, Dr. Satyavir, Dean, College of Agriculture was appointed as an inquiry officer to submit his inquiry report to the University, however, no regular inquiry was held by Dr. Satyavir. The mercy appeal was rejected on 25.10.2005 by the Board of Management.

On notice, the defendants filed their joint written statement contesting and controverting the claim of the plaintiff on various grounds. Preliminary objections regarding maintainability, bar of limitation, no cause of action, estoppel etc. were taken. On merits, the defendants admitted that the plaintiff had been allowed by the Vice-Chancellor to attend the International Conference. However, they alleged that plaintiff lodged a false claim of TA/DA and registration fee for Rs.1,40,509.60 and Rs.29305/- as against the entitlement of Rs.1,09,959.85. He claimed the registration fee of US \$ 525 which he had not actually paid. He claimed full daily allowance at USA rates in violation of HAU TA rules 2.4 (iv) whereas he was provided free boarding and lodging in the shape of scholarship. Thus, he submitted the false claim of Rs. 49,313.75. After considering his reply to the show cause notice, University gave him an opportunity of personal hearing on 4.9.2002. The plaintiff felt sorry repeatedly and requested that he may be excused. He was ready to deposit the excess amount taken and to forego the remaining claim. Thereafter the University issued a show cause notice for imposing penalty of dismissal from services. The plaintiff was dismissed from service on 6.11.2002 and his mercy appeal was

rejected on 25.10.2005 by the Board of Management.

The suit of the plaintiff was partly decreed on the following grounds:

- (i) the impugned order 6.11.2002 was passed by the Vice Chancellor without holding a regular enquiry. For dismissing the services of the plaintiff, a regular enquiry was mandatory.
- (ii) During the pendency of the mercy petition before the Board of Management, Dr. Satyavir was appointed as inquiry officer. Dr. Satyavir should have submitted his report to the Vice-Chancellor who was the disciplinary authority in the present case. Further neither copy of the inquiry officer was supplied to the plaintiff nor the plaintiff was given an opportunity of being heard by the Board of Management and an order was passed against him rejecting his mercy petition. Once the Board of Management had nullified the order dated 6.11.2002 and appointed Dr. Satyavir as inquiry officer, the correct procedure should have been that the enquiry report should have been examined by the authority i.e vice chancellor and thereafter an opportunity of hearing should have been given to the plaintiff. After issuing him show cause notice along with the inquiry report, this exercise was not done. Hence the procedure for imposing a major penalty had not

been followed.

The trial Court partly decreed the suit and set aside the orders of termination. However, defendants were given opportunity to proceed against the plaintiff in accordance with the principles laid down for conducting a regular enquiry.

The plaintiff as well as the University went up in appeal against the judgment of trial Court. However, lower appellate Court dismissed both the appeals by affirming the findings recorded by the trial Court that the order of termination was not in accordance with procedure laid down for conducting the regular enquiry.

On a specific query made by the Court, counsel for the appellants has informed that pursuant to the judgment dated 12.8.2011 of the trial Court and judgment dated 26.5.2014 passed by the appellate Court dismissing the appeals, no steps had been taken by the University for conducting regular enquiry against the plaintiff. Plaintiff has since retired and is of 78 years of age as informed by the counsel for the respondent.

The judgments and decree passed by both the Courts setting aside the order of termination 6.11.2002 do not require any interference in view of the fact that once the order dated 6.11.2002 had been recalled by the Board of Management and Dr. Satyavir was appointed inquiry officer, the respondent should have been given opportunity of personal hearing. The appellants have not initiated the proceedings against plaintiff since 12.8.2011 till date and during the pendency of the proceedings, the respondent has attained

superannuation.

In view of all what has been discussed above, no substantial question of law arises for consideration in this regular second appeal, the same is hereby dismissed.

March 27, 2015
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(RITU BAHRI)
JUDGE