

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

**Regular Second Appeal No.792 of 2015 (O&M)
Date of decision: 30.04.2015**

Pritam Singh Virk

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Salar, Advocate,
for the appellant.

Ritu Bahri, J.

CM Nos.2362-2363-C of 2015

For the reasons mentioned in the applications, same are allowed and delay in filing and re-filing the appeal is condoned.

RSA No.792 of 2015

Plaintiff-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below i.e. Civil Judge (Junior Division), Nabha and the Additional District Judge, Patiala, whereby his suit for declaration has been dismissed.

Pritam Singh Virk-plaintiff (appellant herein) filed a suit for declaration to the effect that the charge sheet framed against him was illegal, null & void and was not binding upon him. He further sought relief of mandatory injunction directing the defendants-respondents to release the amount along with interest and other benefits, which were deducted by the defendants from the amount of the plaintiff-appellant.

Plaintiff had been serving as doctor/Medical Officer in Health

Department and had retired from Civil Hospital, Nabha on 30.06.2006. While serving as Medical Officer, Anandpur Sahib, he proceeded on leave for three days upto 31.05.2000. Thereafter, he applied for earned leave for one month upto 30.06.2000. But the same was cancelled by the SMO vide letter dated 07.06.2000, due to shortage of staff. The plaintiff-appellant joined his duties on 29.06.2000. Thereafter, he was transferred to Civil Hospital, Nabha, where he received a charge-sheet on account of absence from duty. Pursuant to the charge-sheet, an enquiry was conducted by Dr. Inderjit Kaur Walia, the then Civil Surgeon, Sangrur. The enquiry officer found the plaintiff guilty of the charges levelled against him. Reply to the enquiry report was found unsatisfactory and punishment of stoppage of one increment with cumulative effect was awarded vide order dated 02.09.2005.

Upon notice, defendant-respondents filed separate written statement and controverted the allegations levelled by the plaintiff-appellant in his suit.

Both the Courts below have dismissed the suit of the plaintiff and returned concurrent findings of fact that as per documents, Ex.P11 to Ex.P14, the enquiry proceedings were conducted as per Punjab Civil Services (Punishment & Appeal) Rules and the punishment order was passed after affording due opportunity to the plaintiff-appellant as per above said Rules. The plaintiff-appellant did not challenge the order of punishment before the appellate authority as per Rules. He was held guilty of 'absent from duty'.

As per the evidence led by the defendants-respondents, plaintiff had filed reply to the enquiry report, which was found unsatisfactory and thereafter, one increment of the plaintiff was stopped with cumulative effect.

This order was never challenged before the appellate authority as per Punjab Civil Service (Punishment & Appeal) Rules. The scope of interference in the orders passed by the disciplinary authority on the enquiry report is very limited. Furthermore, the scope of interference in the quantum of punishment by the Civil Courts is restricted unless the punishment is too harsh or disproportionate to the allegations of misconduct.

The judgments passed by both the Courts below do not require any interference as the punishment of stoppage of one increment with cumulative effect has been awarded to the plaintiff-appellant by following due procedure as per the Punjab Civil Services (Punishment & Appeal) Rules. The suit of the plaintiff-appellant has been rightly dismissed and no illegality, much less perversity, has been found in the impugned judgments, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

30.04.2015
ajp

(RITU BAHRI)
JUDGE