

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

**Regular Second Appeal No.5628 of 2014 (O&M)
Date of Decision: November 17, 2015.**

Punjab State Warehousing Corporation Chandigarh and others

.....APPELLANT(s).

VERSUS

Gurnam Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shekhar Kumar, Advocate for
Mr. Nitin Kaushal, Advocate
for the appellant (s).

Ms. Jagdeep Bains, Advocate
for the caveator-respondent.

SURINDER GUPTA, J.

This is a regular second appeal against the judgment and decree passed by Civil Judge (Junior Division) Patiala, whereby, suit of the plaintiff challenging the punishment order dated 9th March, 2005 vide which he was awarded punishment of stoppage of one annual grade increment with cumulative effect, was decreed.

2. Para 8 of the judgment of first Appellate Court gives a brief discussion of facts of the case and is reproduced as below:

“Undisputed facts of this case are inter-alia that Gurnam Singh plaintiff was initially charge sheeted vide charge sheet dated 28.9.2000 Ex.P15 and after considering his reply Ex.P16, Sh.DK Jain,, IAS (Retd.) was appointed as

Inquiry Officer vide order Ex.P18,, who after conducting regular enquiry submitted enquiry report Ex.P19 vide which the plaintiff has been exonerated as the charges leveled against him have not been proved; that vide order Ex.P21 passed by the Managing Director of the defendant Corporation, charge sheet served upon the plaintiff dated 28.9.2000 Ex.P15 has been withdrawn with right reserved to initiate fresh proceedings; that thereafter fresh charge sheet Ex.P23 was again issued to the plaintiff leveling same charges and Sh. Amarjit Singh, IAS (Retd.) conducted regular enquiry and submitted fresh enquiry report Ex.P33 and held that charge no.2 in charge sheet Ex.P23 stands proved against the plaintiff and consequently impugned order Ex.P1 has been passed; that the appeal dated 16.4.2005 Ex.P5 preferred by the plaintiff challenging the impugned order Ex.P1 with the Board of Directors, has not yet been decided.”

3. The Courts below found that after dropping of the first charge-sheet, issuance of second charge-sheet on the same allegations and imposing of punishment based on the enquiry report in second charge-sheet is illegal, null and void, ultra vires and unsustainable in the eyes of law.

4. It is also evident that against the impugned order dated 9th March, 2005, the plaintiff had filed the appeal before the departmental-appellate authority, which had not been decided till the filing of the suit in the year 2007 or even till the disposal of the case.

5. Learned counsel for the appellant has argued that on the first charge-sheet, report of the enquiry officer was received exonerating the plaintiff. The proceedings against him were dropped, reserving right to

proceed against him afresh. The second charge-sheet was issued against the

plaintiff and several other persons and in the enquiry, he was found to be guilty for causing loss to the appellant and resulting in awarding of punishment vide impugned order dated 9th March, 2005.

6. The lower Court, on perusal of the evidence on record has recorded a finding that both the charge-sheets against the plaintiff relate to the same allegations, as such, were not permissible. This fact is not disputed that after the report of the enquiry officer in first charge-sheet, the proceedings against the plaintiff relating to the damages to paddy amounting to ₹12,20,000/- because of shifting of paddy from one rice mill to another rice mill without obtaining receipt, was dropped. The first Appellate Court on referring to Rule 9 of Punjab Civil Services (Punishment and Appeal) Rules, 1970 has rightly observed that if the punishing authority disagree with the finding of the enquiry officer, it may record its reasons for such disagreement and proceed to record its own finding on the charge, if the evidence on record is sufficient for that purpose or remit the case to enquiry officer for further enquiry.

7. In this case, after receiving the report of the enquiry officer exonerating the plaintiff, the punishing authority has neither recorded any note of disagreement nor remitted the case to the enquiry officer for further enquiry. The procedure adopted by the punishing authority to drop the proceedings and then to start de novo enquiry after issuing a fresh charge-sheet has rightly been dubbed by Courts below as unsustainable in the eyes of law.

8. On perusal of the paper book and judgments of the Courts below, I find no legal or factual infirmity therein, calling for any

interference.

9. No substantial question of law requiring determination arises in this appeal, which has no merits.

10. Dismissed.

November 17, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE