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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 25.05.2016

1. RSA-2731-1988

Nirmal Singh
Versus ... Appellant

P.S.E.B and others
... Respondents

2. RSA-2817-1988

P.S.E.B and another
Versus ... Appellants

Jaswant Singh and another
... Respondents

3. RSA-3229-1987

P.S.E.B
Versus ... Appellant

O.P. Viz
... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: None for the appellant (in RSA-2731-1988).

Mr. Vishal Gupta, Advocate,
for the respondent (in RSA-2731-1988).

Mr. S.S. Siao, Advocate
for the appellant(s) in RSA-2817-1988 and
RSA-3229-1987.

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?

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of three appeals bearing RSA-2731-1988 titled as “Nirmal Singh V/s P.S.E.B and others”, filed at the instance of the plaintiff(s), RSA-2817-1988 titled as “P.S.E.B and another V/s Jaswant Singh and another” and RSA-3229-1987 titled as “P.S.E.B V/s O.P. Viz”, filed at the instance of the Punjab State Electricity Board (hereinafter called 'the Electricity Board').

Mr. Vishal Gupta and Mr. S.S. Siao, learned counsel appearing on behalf of the Electricity Board submits that all the plaintiff(s) were posted as Executive Engineer and had purchased certain material, namely, M.S. Plates. The purchase of the the material was against the Circular dated 30.11.1981 and accordingly, show cause notice was issued on 06.10.1982. Show cause notice dated 06.10.1982 calling upon the delinquent employees to pay the amount as mentioned was served and the same was replied. On consideration of the reply vide order dated 02.02.1984, a recovery of ₹ 15,450/- in one case and other odd amount in other cases was imposed. Since, it was a minor penalty, inquiry was dispensed with. The aforementioned impugned order was assailed by the plaintiff(s) in RSA-2731-1988 whereas in RSA-2817-1988 and RSA-3229-1987, the suit was dismissed by the trial Court, however, the lower Appellate Court decreed the suit.

The case of the plaintiff(s) before the trial Court was that the order had not been passed by the Electricity Board and conveyed by the Secretary and therefore, the order was not valid in law. There was no material on record to support the conclusion of the Punishing Authority that the loss had been

caused by the plaintiff(s). The plaintiff(s) was not allowed to inspect the record of the Executive Engineer, Tarn Taran and other material before submitting the reply to the show cause notice. The Punishing Authority had not applied his mind to the facts of the case. The Electricity Board had showed discrimination qua other similarly situated Executive Engineers. The technical and commercial facts were not taken into consideration. All these aspects were brought on record, but both the Courts below dismissed the suit in RSA No.2731 of 1988, however, the lower Appellate Court in RSA No.2817 of 1988 and RSA No.3229 of 1987, reversed the findings of the trial Court and decreed the suit.

The case of the Electricity Board had been that the circular dated 30.11.1981 directed some particulars of electricity connections depending on the doors of the tube-well, chamber/*khota* and as well as the main pump in the pump house, but in violation of the Circular, the plaintiff(s) had purchased M.S. Plates by placing the work order and just committed number of illegalities and irregularities. The Courts below, after discussing the evidence threadbare, did not find any substance and dismissed the suit. However, the lower Appellate Court in the appeals bearing RSA No.-3229-1987 and RSA No.2817 of 1988, has committed the illegality and perversity and gone in the arena of surmises and conjectures in not referring to the circular and the following substantial question of law arises for determination in the appeal bearing RSA No.-3229-1987 and RSA No.2817 of 1988:-

1. Whether the judgment and decree of the lower Appellate Court is sustainable in the eyes of law as there was no reference to the circular dated 30.11.1981.

I have gone through the paper book and heard Mr. S.S. Siao and Mr. Vishal Gupta and appraised the paper book and of the view that there is a complete defiance of the circular which did not permit the concerned Executive Engineer-plaintiff to purchase the M.S. Plates, but to paint the data on the doors of the tube-well and chamber as noticed above and thus, there were illegalities and irregularities and the competent authority after noticing every aspect imposed the minor penalty. The order was passed by the Electricity Board, but conveyed by the Secretary and therefore, it did not lack any jurisdiction. As per the Regulation No.10 of the Punjab State Electricity Board Employees' (Punishment and Appeal) Regulations, 1971, in case of imposition of minor penalty, the matter is not required to be inquired into, in essence, the inquiry was exempted. It is, in these circumstances, the Electricity Board dispensed the inquiry and imposed the minor penalty. Even, it has been found that the Electricity Board had only sought the recovery of the amount by asserting the total loss of ₹ 3/- per plate, therefore, there was no occasion arose to indulge into the matter of mathematical calculations.

For the foregoing reasons, no ground is made out for interference and accordingly, the judgment and decree of the lower Appellate is not sustainable and the same is hereby set aside. The suit is dismissed. Accordingly, the RSA No.3229 of 1987 and RSA No.2817 of 1988 stand allowed and RSA No.2731 of 1988 stands dismissed.

25.05.2016
yogesh

(AMIT RAWAL)
JUDGE