

RSA No.1437 of 1990

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In the High Court of Punjab and Haryana at Chandigarh.

RSA No.1437 of 1990
Date of Decision:05.02.2016

Punjab State Warehousing Corporation

...Appellant

Versus

S.K. Joshi

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. K.B. Raheja, Advocate,
for the appellant.

Mr. Vishal Khatri, Advocate
for Mr. Vipul Jindal, Advocate,
for the respondent.

SABINA, J.

Respondent had filed suit for declaration challenging the order dated 16.10.1980, whereby, he was dismissed from service and the order dated 10.04.1981, whereby, he was reverted from the post of Warehouse Manager to Accounts Clerk and the order dated 13.05.1983.

Case of the respondent, in brief, was that he was working as a Warehouse Manager with the appellant. Charge-sheet dated 01.02.1980 was issued to the respondent. Respondent submitted his reply to the charge-sheet and thereafter Inquiry Officer was appointed. Show cause notice

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was issued to the respondent on 01.07.1980 after the Inquiry Officer submitted his report. Respondent was ordered to be dismissed from service vide order dated 16.10.1980. In an appeal filed by the respondent, the punishment order dated 16.10.1980 was modified and it was ordered that the respondent be reverted from the post of Warehouse Manager to Accounts Clerk. Thereafter, respondent submitted a representation and vide order dated 13.05.1983 the period from 15.04.1981 to 13.02.1983 was ordered to be treated as leave period. The case of the respondent was that the inquiry had not been conducted in a proper manner. The relevant documents were not supplied to the respondent to enable him to file reply to the show cause notice.

Appellant in its written statement averred that the the inquiry proceedings had been conducted against the respondent in accordance with law.

On the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the plaintiff is entitled to the declaration as alleged? OPP
2. Whether the orders dated 16.10.80, 17.7 81 and 13.5.83 are illegal, null and void, ultravires against the principles of natural justice, rules and regulations governing the service conditions of the plaintiff as alleged?

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OPP

3. Whether the suit is not maintainable? OPD
4. Whether the suit has not been properly valued for purpose of court fee and jurisdiction? OPD
5. Whether the plaintiff has no cause of action? OPD
6. Whether the suits is bad for non-joinder of necessary parties? OPD
7. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 18.07.1986 dismissed the suit filed by the respondent. Appeal filed by the respondent against the judgment/decreed passed by the trial Court was allowed by the First Appellate Court vide judgment/decreed dated 19.03.1990. Hence, the present appeal by the appellant-corporation.

Learned counsel for the appellant has submitted that the First Appellate Court has erred in allowing the appeal filed by the respondent. In fact, respondent was given opportunity to inspect the relevant record and submit his reply to the show cause notice. Further respondent had failed to establish that he had suffered any prejudice on account of non supply of the documents sought by him i.e. preliminary report etc.

Learned counsel for the respondent, on the other

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hand, has submitted that the respondent had made a specific request to the appellant-corporation to supply him the statements of witnesses recorded during inquiry proceedings and the copy of the the inquiry proceedings. Respondent had also requested that he may be permitted to consult the relevant record for the year 1979 and 1980. However, the said request of the respondent was declined vide Exhibit P-2. Consequently, respondent had suffered serious prejudice and could not put up his defence properly.

In the present case, Exhibit P-2 is the relevant document. A perusal of Exhibit P-2 reveals that when show cause notice was issued to the respondent proposing punishment of dismissal from service, respondent moved an application that he be granted 10 days extension to enable him to consult the record lying with the Inquiry Officer. Respondent further requested that he may be allowed to consult godown register and standardization registers for the year 1979 and 1980. Respondent had further requested that he may be supplied the copies of statement of witnesses and proceedings. The said request of the respondent was declined. Thus, in the present case, despite specific request made by the respondent that he be supplied with the copies of the statements of the witnesses and inquiry proceedings to enable him to file the reply to the show cause notice, the said

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request was declined by the Managing Director, vide Exhibit P-2. Since the record relating to inquiry proceedings was not supplied to the respondent nor he was permitted to consult the relevant godown register and standardization registers, it is apparent that the respondents suffered a serious prejudice while submitted reply to the show cause notice. Hence, the learned First Appellate Court rightly held that the impugned orders were liable to be set aside as they had been passed in violation of principles of natural justice.

No substantial question of law arises in this appeal, warranting interference by this Court.

Dismissed.

February 05, 2016
kapil

(SABINA)
JUDGE