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

**RSA-19-1990 (O&M)
Date of decision: 22.01.2016**

Hawa Singh

..... Appellant

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.D Bansal, Advocate
for the applicant-appellant.

Mr. Ravi Partap Singh, AAG, Haryana.

SABINA, J.

Appellant had filed suit for declaration challenging the order dated 24.08.1984, whereby his one increment was stopped with cumulative effect. Appellant had also challenged the order passed by Appellate Authority on 10.12.1985, whereby his appeal was dismissed.

The case of the appellant, in brief, was that he was working as a Conductor with the respondents. On 12.03.1984 when the appellant was on duty, the bus was checked by the inspecting staff and it was found that three passengers were

travelling without tickets, although, the appellant had charged ₹ 2/- from the passengers and had thus embezzled ₹ 6/-. The bus was on its way from Jind to Khanda. Enquiry was held against the appellant and the General Manager vide order dated 24.08.1984 ordered that one increment of the appellant be stopped with cumulative effect. Appeal filed against the said order was dismissed by the Appellate Authority vide order dated 10.04.1985. It was the case of the appellant that the impugned orders were null and void and had been passed in violation of principles of natural justice.

Respondents in their, written statement, averred that since minor punishment had been awarded to the appellant, he was not required to be granted personal hearing nor any such request had been made by the appellant.

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

- “(1) Whether the order passed by the General Manager, Haryana Roadways, Jind dated 24.08.1984 and that of State Transport Controller, dated 10.05.1985 are null and void, ineffective and without jurisdiction and are liable to be set aside on the grounds mentioned in the plaint? OPP
- (2) Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 23.05.1989 dismissed the suit of the appellant. The said judgment/decreed were upheld by the First Appellate Court vide judgment/decreed dated 04.10.1989, in an appeal filed by the appellant. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the appellant and learned State counsel and have gone through the record available on the file carefully.

It has been noticed by the Courts below that departmental proceedings were initiated against the appellant on report made by the inspecting staff that when the bus in question was checked, it was found that the appellant had charged ₹ 2/- from three passengers but had failed to issue tickets to them and had thus mis-appropriated ₹ 6/-. Chargesheet was issued to the appellant and he submitted his reply to the same. After considering the reply, punishing authority ordered that one increment of the appellant be stopped with cumulative effect. Admittedly, as per rules minor punishment had been imposed on the appellant.

The scope of judicial review regarding interference with punishment order is very limited. The jurisdiction of this Court is only to see the method/manner of awarding punishment. The Court is only concerned with the procedure

adopted by the Punishing Authority. If the procedure adopted by the Punishing Authority is according to rules and natural justice, then no interference with the punishment order is called for. This Court cannot go into the merits of the case. In case, the finding of the Inquiry Officer is based on some evidence, then the Court cannot re-appreciate the evidence or weigh the same like the Appellate Authority. So long as there is some evidence in support of the conclusion arrived at by the departmental authority, the same has to be sustained. Some defect in the inquiry has to be pointed out before this Court can interfere with the punishment order. Further more, if defect is pointed out then the delinquent employee has to show as to what prejudice has caused to him on account of the said defect. The Court exercising jurisdiction of judicial review is not to interfere with the finding of the fact arrived at in a departmental inquiry excepting in a case of mala fide or perversity.

Both the Courts below after appreciating the evidence on record held that the departmental proceedings have been conducted as per rules and there was no procedural infirmity warranting interference by the Civil Court.

In the facts and circumstances of the present case, the Courts below had thus rightly dismissed the suit of the plaintiff. The punishing authority had imposed minor penalty on the appellant after following due procedure of law. No

substantial question of law arises in this case warranting interference by this Court.

Dismissed.

January 22, 2016
Ramandeep Singh

(SABINA)
JUDGE