

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

**RSA No. 2401 of 1990
Date of Decision: August 10, 2016**

Teja Singh	Versus	Appellant
Deputy General Manager and others		 Respondents

CORAM : HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present : Mr. Harinder Sharma, Advocate with
Mr. Guasharan Kaur, Advocate
for the petitioner.

Mr. K.S.Sidhu, Sr. Advocate with
Mr. G.S.Benipal, Advocate
for P.R.T.C.

P.B.BAJANTHRI, J. (ORAL)

The appellant, herein, in the instant appeal has questioned the validity of both the trial Court order dated 7.11.88 and lower appellate Court order dated 30.7.1990.

The appellant was appointed as a driver. While discharging the duties of the post of driver on 12.11.1982, the bus driven by the petitioner met with an accident with a car whereby the driver of the car one Mr. Harbakhsh Singh died. Arising out of these facts, parallel proceedings were initiated against the appellant. In the criminal proceedings, appellant was charge sheeted for the offences punishable under Sections 304-A, 279 and 427 IPC. On 9.5.1986, the appellant was acquitted for the aforementioned offences.

On 3.6.1985, the appellant was subjected to disciplinary

proceedings, in which, he was penalized by imposing penalty of withholding of six increments with cumulative effect. Aggrieved by the order of the disciplinary authority, the appellant preferred an appeal. The appeal was rejected. Appellant filed a suit for declaration before the trial Court. The trial Court disposed of the suit on 7.11.1988 against the appellant. Thereafter, he preferred an appeal before the lower appellate Court. The lower appellate Court confirmed the order of the trial Court on 30.7.1990. Hence, the present appeal.

Learned counsel for the petitioner submitted that in the disciplinary proceedings, the Inquiry Officer held *ex-parte* inquiry. Against second show cause notice alongwith Inquiry Officer's report, the appellant submitted his explanation by way of reply, in which, he has specifically contended that on 16.9.1983, he was asked to attend the inquiry. However, the Inquiry Officer did not hold inquiry at Faridkot as he has not reached at Faridkot. Thereafter, appellant did not have any communication relating to next date of hearing in the inquiry. It was further submitted that the Inquiry Officer even while holding *ex-parte* inquiry has not discussed the evidence to the extent of negligence on the part of the appellant. The Inquiry Officer has relied on evidence adduced by one Charan Dass, Traffic Manager. He has not deposed any negligence with the corroborative evidence. He is same person, who has adduced evidence in the criminal proceedings and the Criminal Court has acquitted the appellant. Therefore, there is a judicial pronouncement

in respect of the evidence of Charan Dass, Traffic Manager, which will prevail over the decision of the Inquiry Officer in a disciplinary proceedings. Therefore, the disciplinary proceedings are not in accordance with the law. These contentions have not been proved by the trial Court as well as the lower appellate Court. Thus, the trial Court and the lower appellate Court have erred in giving finding against the appellant.

Per contra, learned counsel for the respondent submitted that the disciplinary proceedings have been initiated and concluded in accordance with law after giving due opportunity to the appellant. The same has not been opposed by him and remained *ex-parte*. Consequently, the Inquiry Officer proceeded with *ex-parte* inquiry and held that the charges levelled against the appellant have been proved and there is no infirmity in the disciplinary proceedings as well as the decision of the trial Court and lower appellate Court.

Heard learned counsel for the parties.

The crux of the issue is whether appellant's negligence is proved or not. In both the proceedings, the sole witness is Charan Dass, Traffic Manager. He has adduced evidence in the criminal proceedings. The same has been taken note of the trial Court and held that there is no negligence on the part of the appellant and he has been acquitted. On the other hand, from the same evidence of Charan Dass, Traffic Manager, it has been taken note by the Inquiry Officer in the departmental inquiry, in which, it has been held that there is negligence on the part of the

appellant.

Perusal of the Inquiry Officer's report, which is 2 ½ pages manuscript, relevant portion reads as under:-

“The Traffic Manager gave a detailed statement stating the facts of the accident and corroborated the report Mark Ex.M1. He proved that accident took place due to the rash and negligent driving of driver Teja Singh No. F122”.

Thereafter, the Inquiry Officer proceeded to hold that the charge levelled against the appellant stands proved. It is a case of no evidence if one reads Inquiry Officer's report as well as penalty order dated 3.6.1985.

In view of these facts and circumstances, the trial Court order dated 7.11.1988 and the lower appellate Court order dated 30.7.1990 are set-aside. Consequently, the penalty order dated 3.6.1985 is set-aside.

The appeal is disposed of in the above terms.

August 10, 2016
amit rana

(P. B. BAJANTHRI)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No