

In the High Court of Punjab and Haryana at Chandigarh.

RSA No.446 of 2012
Date of Decision:29.01.2016

Punjab State, Department of Food and Supplies, Chandigarh and
another

...Appellants

Versus

Harbans Lal

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. K.D.S. Siddhu, Addl, AG, Punjab.

Mr. K.S. Bhalla, Advocate,
for the respondent.

SABINA, J.

Respondent has filed suit for declaration challenging the order dated 24.11.1995, whereby he was dismissed from service and the order dated 23.02.1998 passed by appellate authority.

Case of the respondent, in brief, was that while he was working as a Assistant Food Supplies Officer, charge-sheet was issued to the respondent and he submitted his reply to the same. Appellants appointed an Inquiry Officer. Respondent was not afforded any opportunity to enable him to cross-examine the witnesses. Moreover, the Inquiry Officer had himself acted as a Prosecutor as well as Judge and had denied a reasonable opportunity to the respondent to put up his case. The appellate authority without considering the submissions of the respondent had dismissed the appeal.

Appellants/defendants in their written statement averred that charge-sheet was issued to the respondent on account of shortage of wheat deducted at P.R. Centre, Hathur. Respondent was also issued charge-sheet qua excessive replacement of gunny bags and for causing loss to the department. Respondent submitted his reply to the charge-sheet. After considering the same, detailed departmental inquiry was held against the respondent. On receipt of the report from the Inquiry Officer that the charges leveled against the respondent stood proved, respondent was ordered to be dismissed from service. The appeal filed by the respondent was duly considered and was rejected as it was devoid of merit.

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

- “1. *Whether the order No.IA (I)(504)-95/8170 dated 24.11.95 and appellate order No.IA(I)-504-98/987 dated 23.2.98 are illegal, arbitrary, mala fide and against the principles of natural justice.? OPP*
2. *Whether the plaintiff is entitled to mandatory injunction? OPP*
3. *Whether the plaintiff has no cause of action to file the present suit? OPD*
4. *Relief.”*

Parties led their evidence in support of their respective pleas.

Trial court vide judgment/decree dated 08.01.2007 decreed the suit of the respondent. The relief column of the judgment dated 08.01.2007 reads as under:-

“In view of my findings on the issues discussed above, the suit of the plaintiff is decreed and order no.1-A(1)(504)-95/8170 dated 24.11.95 and appellate order endst no.,1-A(504)-98/987 dated 23.2.98 is declared as illegal, arbitrary, malafide against the principle of natural justice and fair play. It is directed to the defendant to reconsider the matter again against the plaintiff. However, the defendants are at liberty to reconduct or reinitiate the enquiry proceedings where they have not complied with the rules and regulations stated in the above detailed issues and consider the matter again as per the appropriate rules and orders, plaintiff is entitled for consequential benefits also. As the case is old one and matter remained pending since Long, therefore defendants are directed to consider the inquiry proceedings if initiate against the plaintiff and conclude the same within one year. Decree sheet be prepared and file by consigned to the record room.”

Appellants preferred an appeal against the said judgment/decree and the same was dismissed by the first appellate court vide judgment/decree dated 20.12.2010.

Hence, the present appeal by the appellants.

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

In the present case, trial court after going through the inquiry file has given a finding of fact that no charge-sheet was available on the inquiry file nor the reply filed by the respondent was available on the file. In the absence of the said material documents, the inquiry Officer could not have proceeded with the inquiry. It has been noticed by the trial court that the witnesses examined by the department had not been cross-examined by the respondent. The learned trial court noticed that letter dated 17.12.1990 had been issued by the Secretary Administrator to the Inquiry Officer to give proper opportunity to the respondent to enable him to cross-examine the witnesses. There was no order on the file to show that on the day of enquiry witnesses were present and respondent had not availed the opportunity to cross-examine them. In this situation the learned trial court rightly came to the conclusion that opportunity had not been granted to the respondent to enable him to cross-examine the witnesses examined by the department during inquiry proceedings.

In the present case, it is evident that the inquiry proceedings stood vitiated as the charge-sheet and reply filed by the respondent to the charge-sheet were not available on the inquiry file. Thus, the Inquiry Officer proceeded with the

inquiry in the absence of material documents. Moreover, respondent was not granted proper opportunity to enable him to cross-examine the witnesses examined by the department during inquiry proceedings.

The Courts below had, thus, rightly decreed the suit of the respondent. Defendants were granted liberty to enable them to re-conduct or reinitiate the inquiry proceedings in accordance with law.

The argument raised by the learned State Counsel that the respondent should have been denied the wages for the period he had not worked was rightly rejected by the first appellate court as the respondent was prevented from discharging his duties on account of the act of the appellants and not on account of any fault on the part of respondents.

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

Dismissed.

January 29, 2016
kapil

(SABINA)
JUDGE