

RSA-5365-2012

[1]

In the High Court of Punjab and Haryana at Chandigarh

RSA-5365-2012

Date of Decision:23.02.2016

Sukhminder Singh

....Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vikas Chatrath, Advocate
for the appellant.

SABINA, J.

Appellant had filed suit for declaration challenging the orders dated 27.10.2005 and 30.05.2007.

Case of the appellant, in brief, was that he was working as a Driver with the Punjab Roadways, Ludhiana. On 05.12.2003, appellant had applied for rest from 06.12.2003 to 08.12.2003 and had forwarded the application through Paramjit Singh, Conductor. However, appellant was marked absent on 06.12.2003 and his leave was sanctioned from 07.12.2003 to 08.12.2003. Charge-sheet was issued to the appellant on 11.12.2003. Appellant has submitted his reply to the said charge sheet but the same was not considered satisfactory and show cause notice was issued to

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the appellant. Departmental inquiry was initiated against the appellant. Appellant was not supplied the copies of the statements of the witnesses. The punishing authority without considering the reply submitted by the appellant to the show cause notice served on him, passed the punishment order, whereby two annual increments of the appellant were stopped with cumulative effect and recovery of ₹5,280/- was ordered to be effected. Appeal filed by the appellant against the punishment order was dismissed by the appellate authority being time barred. Hence, the suit was filed by the appellant.

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

- “1. *Whether the plaintiff is entitled for declaration as prayed in the head note of the plaint? OPP*
2. *Whether only half documents were supplied to plaintiff with charge sheet? OPD*
3. *Whether the orders passed against the plaintiff by defendants are legal, valid and correct? OPD*
- 4 *Relief.”*

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 30.07.2010 dismissed the suit of the plaintiff. The said judgment and decree were upheld in appeal filed by the appellant by the First Appellate Court vide judgment/decreed dated 28.02.2012.

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Hence, the present appeal by the appellant-plaintiff.

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

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.

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In the present case, on account of absence of the appellant on 06.12.2003, charge sheet was served on him. Appellant submitted his reply to the charge sheet. Thereafter, departmental inquiry was initiated against the appellant and inquiry officer was appointed. Admittedly, appellant duly participated in the inquiry proceedings. Appellant examined Paramjit Singh, Conductor in his defence. The Inquiry Officer however gave the report against the appellant and on the basis of the same punishment order was passed. Thus, in the present case, punishment order had been passed after following due procedure of law.

In the facts and circumstances of the present case, the Courts below had, thus, rightly ordered the dismissal of the suit of the appellant.

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

Dismissed.

February 23, 2016
kapil

(SABINA)
JUDGE