

RSA-1040-2013

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:11.02.2016

Santokh Singh

....Appellant

Versus

The Punjab State Electricity Board and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vijay Lath, Advocate and
Mr. Naveen Sharma, Advocate,
for the appellant.

SABINA, J.

Appellant had filed suit for declaration challenging the order dated 02.05.2000, whereby his services were terminated.

Case of the appellant, in brief, was that he had joined the defendant-Board as a Lineman on 17.03.1979. Appellant had proceeded on sanctioned earned leave on 09.03.1998. The leave was to expire on 06.04.1998 but unfortunately appellant fell ill and could not join his duty. Family members of the appellant tried their best to get the appellant treated from April 1998 to December 2003. However, when appellant reported for duty after recovery from

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his illness, he was not permitted to join duty and his services were terminated without following due procedure of law.

Case of the respondents-defendants was that admittedly, the appellant had joined the defendant-Board as Lineman on 17.03.1979 and his services had been terminated on 02.05.2000 as he had failed to resume his duty. It was further averred that the services of the appellant had been terminated after following due procedure of law.

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

- “1. *Whether the plaintiff is entitled to declaration and mandatory injunction as prayed for?OPP*
2. *Whether suit is bad for non-joinder of necessary parties? OPD.*
3. *Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD*
4. *Whether the suit is not maintainable in the present form?OPD*
- 5 *Relief.”*

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 29.09.2010 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 10.09.2012. Hence, the present appeal by the appellant-plaintiff.

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

In the present case, admittedly, appellant had failed to join his duty after expiry of his earned leave in April 1998. Appellant did not join his duty upto December 2003. The case of the appellant was that he could not join his duty on account of his illness, whereas the case of the respondent-Board was that the services of the appellant have been terminated after holding departmental inquiry as he had remained absent from duty.

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

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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.

In order to prove that the services of the appellant have been terminated after following due procedure, respondents examined DW-1 Jaspal Singh. The said witness proved the record showing that the appellant had been issued notice. However, notice sent to the appellant through registered post was received back undelivered with the report that he had gone abroad. Despite issuance of notice on many occasions qua asking the appellant to join inquiry proceedings, appellant had failed to join the inquiry proceedings. Notice was also got published in the newspaper. Thereafter ex parte inquiry was conducted against the appellant. The appellant was ordered to be dismissed from service on the ground that he had remained absent from duty. It is the case of the appellant himself also that he had failed to join duty from April 1998 to December 2003. The plea taken by the appellant was that he was suffering from some illness but had failed to prove any medical record to substantiate his

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plea.

In the facts and circumstances of the present case, 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 11, 2016
kapil

(SABINA)
JUDGE