

RSA-2514-2013

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:04.03.2016

Jagtar Singh

....Appellant

Versus

The Director State Transport Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Aman Dhir, Advocate
for the appellant.

Mr. Neeraj Yadav, AAG, Punjab.

SABINA, J.

Appellant had filed suit for declaration challenging the order dated 17.03.2004, whereby he was dismissed from service.

Case of the appellant, in brief, was that he was working with the respondents as a Conductor since February 1978 and his services were illegally terminated w.e.f. 17.03.2004. Appeal preferred by the appellant before the Secretary State Transport, Punjab, Chandigarh was also dismissed. It is the case of the appellant that his services had been terminated without holding fair and proper inquiry in accordance with rules.

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Respondents in their written statement 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 plaintiff is entitled to decreed for declaration as prayed for? OPP*
2. *Whether Civil Court has got no jurisdiction to try this suit? OPD*
3. *Whether the suit is not maintainable? OPD*
4. *Whether the plaintiff does not served notice upon the defendant under Section 80 CPS? OPD*
- 5 *Relief.”*

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 23.03.2011 dismissed the suit of the plaintiff. The said judgment and decree were upheld in appeal filed by the appellant by First Appellate Court vide judgment/decreed dated 08.12.2012. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the appellant as well as learned State counsel 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

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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.

In the present case, appellant was working as a Conductor with the respondents. On 17.12.2000, appellant was on duty on bus enroute of Muktsar to Chandigarh. When the bus was checked at Ludhiana by the inspecting staff, six passengers were found travelling without tickets from

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Muktsar to Ludhiana and one passenger was found without ticket from Jagraon to Ludhiana. Charge-sheet was issued to the appellant on account of the alleged misconduct. Appellant submitted his reply to the charge-sheet and duly participated in the inquiry proceedings. Appellant had cross-examined the witnesses examined by the respondents during inquiry proceedings. Appellant also examined one witness in his defence. Appellant submitted his reply to the show cause notice issued to him in pursuance to the inquiry report submitted by the Inquiry Officer. The punishing authority afforded opportunity of personal hearing to the appellant and thereafter the impugned order dated 17.03.2004 was passed by the punishing authority. As per Punjab Roadways (Operational) State Service Class-III Rules, 1977, the punishing authority for imposing major penalties so far as conductors are concerned, is Director State Transport Punjab and the Appellate Authority is the Government. In the present case, since major penalty was imposed on the appellant, the impugned order of punishment was passed by Director State Transport Punjab. Admittedly, thereafter, the appellant preferred an appeal before the Secretary State Transport Punjab, Chandigarh and the same was dismissed.

Since, in the present case, punishment order had been passed after following due procedure of law, Courts

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below rightly held that the impugned punishment order was liable to be upheld.

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

Dismissed.

March 04, 2016
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(SABINA)
JUDGE