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

**RSA No.1889 of 2015 (O&M)
Date of decision: March 02, 2016**

Joginder Kaur

.....Appellant

Versus

Secretary, Department of Health and Family Welfare,
Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.P.S. Rehan, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration challenging the order dated 28.03.2008.

The case of the appellant, in brief, was that she had joined the services of the respondents in the year 1985. Departmental proceedings were initiated against the appellant on the charge that she had remained absent from duty. Appellant had submitted her reply to the show-cause notice and was afforded personal hearing. However, the order dated 28.03.2008 had been passed with revengeful attitude.

Respondents in their written statement averred that the appellant had remained absent from duty w.e.f. 16.05.2005 to 15.09.2005. After holding departmental inquiry against the appellant as per Rules, the order dated

28.03.2008 was passed, whereby, the period of absence from duty was ordered to be treated as without pay and two annual increments were stopped with cumulative effect.

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

- “1. Whether the plaintiff is entitled to the relief of declaration as prayed for?OPP
2. Whether the plaintiff has cause of action for filing the present suit?OPP
3. Whether the present suit is not maintainable in the present form?OPD
4. Whether the Notice u/s 80 CPC is admitted but legality and validity by challenged?OPD
5. Whether no cause of action arise to file the present suit?OPD
6. Whether the plaintiff has not come in the court with clean hands?OPD
7. Whether the plaintiff is estopped by her own act and conduct to file the present suit?OPD
8. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 30.08.2011 dismissed the suit filed by the appellant-plaintiff. The said judgment/decreed passed by the trial Court were upheld in an appeal filed by the appellant-plaintiff by the First Appellate Court vide judgment/order dated 09.09.2014. 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 been 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.

Both the Courts below after appreciating the

evidence led by the parties on record have held that, although, no inquiry was liable to be held against the appellant as minor penalty was imposed on her, but the respondents had held the departmental inquiry against the appellant in accordance with Rules. Learned counsel for the appellant has failed to point out that the departmental proceedings against the appellant have not been held as per Rules. In these circumstances, the Courts below rightly held that the suit filed by the appellant was liable to be dismissed as Court had no power to review the impugned order passed by the respondents after holding inquiry as per Rules.

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

Dismissed.

**(SABINA)
JUDGE**

March 02, 2016
mahavir