

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

RSA-2235-2015

Date of decision: February 01, 2016

MOHINDER SINGH

.....Appellant

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.ASHWANI KUMAR BURA, Advocate
for the appellant

SABINA, J

Appellant had filed suit for declaration challenging the order dated 10.6.2004, whereby two increments of the appellant were stopped with cumulative effect, and order dated 23.2.2010, whereby appeal filed by the appellant against the order dated 10.6.2004, was dismissed.

Case of the appellant, in brief, was that he was working as a Driver with Haryana Roadways. Charge-sheet dated 3.11.2000 was issued to the appellant on the allegation that he was negligent in causing accident on 1.10.2000 while driving Bus No. HR-37-2326 from Shimla to Delhi near Jabli. As a result of the accident,

department had suffered loss to the tune of ₹1,25,000/- on account of repair of bus. Inquiry Officer had not conducted the inquiry in accordance with law. Although, the charge levelled against the appellant was not proved but the Inquiry Officer gave the report that the charge levelled against the appellant stood proved. Punishing Authority as well as Appellate Authority had passed the impugned order without considering the true facts.

Defendants, in their written statement, averred that the order of punishment as well as the order passed by the appellate authority were in accordance with law. The Inquiry Officer had inquired into the charge levelled against the appellant in accordance with law.

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

“1. Whether plaintiff is entitled to decree for declaration the effect that the impugned charge sheet vide memo No.10303/1C dated 3.11.2000, the enquiry report, show cause notice, the impugned punishment order dated 10.6.2004 and Endst No. 3952/ECD, dated 5.7.2004 and order passed by appellate authority, vide order Endst No. 2849-52/A4/E3, dated 23.2.2010 are illegal, null & void, inoperative, arbitrary, prejudiced and against the principles of natural justice?OPP

2. Whether plaintiff is legally and lawfully entitled to get restore his two stopped annual increments and to get the full salary during suspension period by treating his suspension period as duty period with all intents and purposes, alongwith interest at

the rate of 18% per annum from the date of accrual time till final payment?OPP

3.Whether the plaintiff has concealed the true and material facts from the Court?OPD

4.Whether plaintiff is estopped by his own act and conduct from filing the present suit?OPD

5.Whether the present suit is not maintainable?OPD

6.Whether this Court has got no jurisdiction to try and entertain the present suit?OPD

7.Whether the present suit is properly valued for the purpose of court fee and jurisdiction?OPD

8.Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 14.10.2011 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 and decree dated 29.9.2014. Hence, the present appeal by the appellant-plaintiff.

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

In the present case, admittedly, charge-sheet was issued to the appellant with regard to the accident that had occurred on 3.11.2000 while appellant was driving Bus No. HR-37-2326 from Shimla to Delhi. Criminal case was also registered against the appellant but he was acquitted by the trial Court in the said case. In

the alleged accident, four persons had died and several passengers had suffered injuries. The case of the department was that the accident had occurred due to the negligence of the appellant while driving the bus in question, whereas, the case of the appellant was that the accident had occurred when he had tried to save the collision with the truck coming from the opposite direction on wrong side.

Appellant had duly participated in the inquiry proceedings. Appellant had also examined his witnesses in defence. The Inquiry Officer gave his report on the basis of evidence produced by both sides and held that the charge levelled against the appellant stood proved. Appellant was issued show cause notice and he submitted his reply to the same. Personal hearing was also afforded to the appellant on 30.12.2013. Thereafter, the punishing authority passed the punishment order whereby two increments of the appellant were stopped with cumulative effect. Appellate Authority upheld the punishment order.

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.

Since in the present case, punishment order had been passed by the punishing authority after holding departmental inquiry in accordance with law, the Courts below rightly held that the suit filed by the appellant was liable to be dismissed. There was no procedural error in the departmental proceedings. Merely because appellant had been acquitted in the criminal proceedings was no ground to set aside the punishment order as the charge levelled against the appellant was duly established during departmental proceedings.

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

Dismissed.

**(Sabina)
Judge**

February 01,2016