

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

RSA-5781-2014

Date of decision: January 12, 2016

PARVINDER KAUR AND OTHERS

.....Appellants

Versus

STATE OF PUNJAB & OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: MR. S.K.SHARMA, Advocate
for the appellants

SABINA, J

Rajinder Singh filed a suit for declaration challenging his dismissal order dated 24.5.2002.

The case of the plaintiff-Rajinder Singh was that he had joined as a Clerk with the defendants in the year 1980 and was placed under suspension vide order dated 3.8.1984. Plaintiff was served with charge-sheet dated 25.8.1984. Plaintiff submitted his reply to the charge-sheet. The Inquiry Officer recorded the statements of the witnesses during inquiry proceedings in the absence of the plaintiff. Plaintiff was reinstated in service during the pendency of the inquiry proceedings. The Punishing Authority passed the dismissal order dated 9-4-1987 without supplying the copy of the inquiry report to the plaintiff. A show cause notice was

also not issued to the plaintiff before passing of the punishment order. Appeal filed by the plaintiff against the order of his dismissal was dismissed by the appellate authority vide order dated 14.2.1989. Plaintiff filed civil suit challenging orders dated 9.4.1987 and 14.2.1989. The said suit was decreed by the trial Court vide judgment/decreed dated 7.9.1994 and appeal filed by the State against the said judgment and decree was dismissed by the First Appellate Court vide judgment/decreed dated 9.10.1999. Plaintiff was reinstated in service vide order dated 21.7.1995. Plaintiff was supplied with the copy of the inquiry report and he submitted his reply to the same. Plaintiff also submitted his reply to the show cause notice and was afforded personal hearing. Thereafter, the plaintiff was dismissed from service vide order dated 24.5.2002. Hence, the suit was filed by the plaintiff challenging the order dated 24.5.2002.

Defendants, in their written statement, have averred that the impugned order had been passed in accordance with law.

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

- “1. Whether the plaintiff is entitled to declaration as prayed for? OPP
2. Whether the suit is not maintainable? OPD
3. Whether there is no cause of action to the plaintiff to file the present suit? OPD
4. Whether the suit is premature ? OPD
5. Whether the plaintiff is estopped from filing the present suit due to his own act and conduct? OPP

6. Relief.”

Parties led their evidence in support of their pleas.

Trial Court vide judgment and decree dated 11.11.2009 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 16.4.2013. Hence, the present appeal by the legal representatives of deceased plaintiff-Rajinder Singh.

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

Rajinder Singh was working with the defendants as a Clerk and was placed under suspension vide order dated 3.8.1984. Charge-sheet was issued to the plaintiff on 25.8.1984. Plaintiff submitted his reply to the charge-sheet. Inquiry Officer submitted his inquiry report. The Punishing Authority on receipt of the inquiry report passed the order dated 9.4.1987 whereby plaintiff was ordered to be dismissed from service. The said order was upheld in appeal by the appellate authority vide order dated 14.2.1989. Plaintiff challenged the orders dated 9.4.1987 and 14.2.1989 by filing a civil suit and the same was decreed. In appeal filed by the State, the First Appellate Court granted liberty to the defendants to start the disciplinary proceedings afresh from the stage of the supply of the inquiry report and if necessary, to pass a fresh order. In pursuance to the said judgment and decree, plaintiff was supplied with the copy of the inquiry report. Plaintiff filed his reply to the said report on 14.8.2000. Plaintiff was afforded opportunity of personal hearing.

Show cause notice was issued to the plaintiff on 16.10.2001 qua imposition of penalty of dismissal from service. Plaintiff submitted his reply to the said show cause notice on 15.11.2001. Thereafter, plaintiff was given personal hearing on 6.5.2002 and the impugned order was passed on 24.5.2002 whereby plaintiff was ordered to be dismissed from service. Thus, in the present case, the impugned order was passed after following due procedure of law.

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.

In these circumstances, the Courts below had rightly upheld impugned order as it had been passed after following due procedure of law.

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

Dismissed.

**(Sabina)
Judge**

January 12, 2016

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