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

RSA No.5965 of 2014

Date of decision: January 28, 2016

Jang Singh

.....Appellant

Versus

Pepsu Road Transport Coroporation, Patiala
and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. P.K.S. Phoolka, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration challenging the order dated 10.09.2002 and order dated 10.04.2003.

The case of the appellant, in brief, was that he was working as a Conductor with the respondent-Corporation. Charge-sheet was issued to the appellant on a false complaint made by defendant No.5 but copy of the complaint was not supplied to him. Charge against the appellant was that he had attacked his higher official on 30.11.1999 and for bringing less booking. Appellant submitted reply to the charge-sheet on 21.06.2000. In fact, on 30.11.1999 at about 7:37 AM, appellant was on duty on a bus, which was to go from Bathinda to Ambala Cantt. Driver of the bus, however, failed to turn up and the appellant was waiting for the driver near the Patrol Pump. At about 8:30 AM, defendant No.5 came there and asked the appellant as

to why he was sitting idle and not performing his duty. Appellant told defendant No.5 that the driver of the bus had not arrived and he was waiting for him. Defendant No.5 used abusive language towards the appellant in the presence of Gurdev Singh and Pal Singh. Later, the matter was got resolved. Defendant No.5, however, moved a false complaint against the appellant on 30.11.1999 on the allegation that the appellant had hit him with the spring-leaf. Appellant was placed under suspension vide order dated 30.11.1999. Defendant No.4 was appointed as an Inquiry Officer. The Inquiry Officer vide report dated 07.08.2001 held that the charges were proved against the appellant. Show-cause notice was issued to the appellant and thereafter, defendant No.2 passed the order dated 10.09.2002, whereby, appellant was ordered to be dismissed from service. In departmental appeal preferred by the appellant order whereby appellant had been dismissed from service, was set aside and it was ordered that the appellant be placed in a lower pay-scale.

Defendants in their written statement averred that the impugned orders were legal and valid and had been passed after following due process of law.

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

“1. Whether plaintiff is entitled for grant of declaration as prayed for?OPP

2. Whether plaintiff is estopped by his own act and conduct from filing of this suit?OPD
3. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 02.06.2009 dismissed the suit of the appellant-plaintiff. The said judgment/decreed were upheld by the First Appellate Court vide judgment/decreed dated 06.05.2014 in an appeal filed by the appellant-plaintiff. 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.

In the present case, charge-sheet was issued to the appellant in question dated 30.11.1999. Appellant submitted his reply to the charge-sheet and participated in the inquiry proceedings. Appellant also examined his witnesses in defence. Report of the Inquiry Officer was supplied to the appellant. . Thereafter, show-cause notice was issued to the appellant. Punishing authority afforded opportunity of personal hearing to the appellant, but he failed to appear before the punishing authority. Thereafter, punishing authority passed the order, whereby, appellant was ordered to be dismissed from service. However, in appeal, Managing Director after affording opportunity of personal hearing to the appellant, reduced the punishment

awarded to the appellant by the punishing authority. Appellant had admitted his guilt before the Appellate Authority.

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.

In the present case, departmental proceedings have been held against the appellant in accordance with law. Hence, the Courts below rightly held that since there was no illegality in the procedure followed by the Department during the departmental inquiry, no interference was called for. Moreover, appellant had admitted his guilt. The appellate authority exercising its jurisdiction has already reduced the punishment awarded to the appellant by the punishing authority.

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

Dismissed.

**(SABINA)
JUDGE**

January 28, 2016
mahavir