

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 203

Regular Second Appeal No.2355 of 1993 (O & M)
Date of Decision: September 04, 2017

State of Punjab & others

..... PETITIONERS

VERSUS

Harbhajan Singh

..... RESPONDENT

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Ms. Sudeepti Sharma, Additional Advocate General,
Punjab.

Mr. H.S. Bajwa, Advocate, for the respondent.

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Jaspal Singh, J

1. The instant appeal has been preferred by the Defendants – appellants challenging judgment & decree dated March 15, 1991 whereby suit filed by the respondent – plaintiff was decreed and appeal filed by the defendants – appellant has been dismissed by the lower appellate court vide judgment & decree dated May 24, 1993.

2. Plaintiff filed a suit for declaration to the effect that order dated December 21, 1989 stopping his four increments with cumulative effect and forfeiting the arrears of suspension period passed by defendant No.3 are illegal, unlawful, unconstitutional and liable to be set aside, and that, plaintiff is entitled to arrears of salary alongwith interest. Order dated

working as Driver in Punjab Roadways, Depot Pathankot, put sugar in the engine, as a result of which, it broke down. Plaintiff challenged the said order taking pleas that no proper chargesheet was served upon him; reply to show cause notice was not considered; he was not supplied with copies of documents; no proper enquiry was conducted before passing the penalty order; he was not provided with assistance of co-worker; he was not given opportunity to cross examine the witnesses; impugned order is cryptic in nature; and that, enquiry officer exonerated him but General Manager passed the order without dis-agreeing to the findings of enquiry officer.

3. The suit was contested by the defendants – State. Issues were framed by the trial court. Parties led evidence. After hearing learned counsel for the parties and perusing the evidence/documents, suit filed by the plaintiff was decreed by the trial court vide judgment & decree dated March 15, 1991 whereby order dated December 21, 1989 passed by defendant No.3 stopping four increments of plaintiff with cumulative effect was declared illegal, null and void. Defendants – State preferred an appeal which was also dismissed by the lower appellate court vide judgment & decree dated May 24, 1993. Aggrieved by the judgments & decrees passed by the both the courts below, defendants – appellants have approached this Court by way of instant regular second appeal.

4. Learned counsel for the appellants – State has argued with vehemence that impugned judgments & decrees are against law and facts established on the record. Misappreciation of evidence as well as legal proposition has resulted into miscarriage of justice. Courts below could not point out any illegality in the enquiry which was conducted in accordance with law. Accordingly, both the judgments & decrees are not sustainable in

the eyes of law and deserve to be set aside by way of acceptance of the instant appeal.

5. Per contra, learned counsel for the respondent – plaintiff has supported the judgments & decrees passed by both the courts below by submitting that these are absolutely in consonance with the evidence available on record and settled canons of law.

6. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and scanned the documents available but does not find any legal or factual substance in the submissions made by learned counsel for the appellants.

7. Plaintiff was working as driver in Punjab Roadways, Depot Pathankot. He was chargesheeted on the allegations that he put sugar in the engine as a result of which it was broke down. After enquiry, his four increments were stopped with cumulative effect. Plaintiff filed a suit challenging the order of penalty, which was decreed by the trial court setting aside order dated December 21, 1989. Defendants went up in appeal which was also dismissed by the lower appellate court vide the impugned judgment. During enquiry proceedings, several witnesses were examined but charges levelled against the plaintiff could not be established and it was found that respondent – plaintiff was absolutely neither guilty nor negligent and did not commit any mischief by putting sugar in the engine of bus. There was no reason for the punishing authority to differ with the findings returned by the enquiry officer. Plaintiff was rightly held to be not liable of committing any mischief. Moreover, no question of law much less any substantial question of law could be pointed out by learned counsel for the appellants.

9. No order as to costs.

September 04, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No