

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.250 of 1991 (O&M)

Date of Decision: 07.02.2017

The State of Haryana through the
Collector, Karnal

... Appellant

Versus

Karan Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Indresh Goel, Addl. AG, Haryana.

Mr. Sachin Mittal, Advocate,
for the respondent.

RAJIV NARAIN RAINA, J.

1. The State is in appeal against the judgment of reversal. The plaintiff was a driver in the Haryana Roadways. The bus he was driving met with an accident due to overloading of passengers. This, according to the driver, caused the imbalance at the wheel and led to the accident where fatal injuries were unfortunately sustained by two of the passengers and grievous injuries to another. The State Government had to bear financial burden of payment of compensation amounting to ₹ 92,600/- to the legal heirs and representatives of the deceased passengers awarded by the Motor Accident Claims Tribunal, Karnal vide order dated April 02, 1985. The Haryana Roadways dismissed the plaintiff from service after conducting a regular enquiry. The statutory appeal against the dismissal order failed before the Transport Commissioner, Haryana.

2. Aggrieved by the order of dismissal, the plaintiff approached the Civil Court at Karnal which dismissed the suit vide judgment dated December 24, 1987. The appeal succeeded and the learned ADJ, Karnal

vide judgment and decree dated October 17, 1990 in Civil Appeal No.11/13 of 1988 set aside the judgment and decree passed by the Sub Judge, IIIrd Class, Karnal reinstating the plaintiff to service. The judgment passed by the lower appellate court is self-speaking and requires no further comment. The Judge took into consideration the procedural and substantive aspects of the enquiry proceedings reduced in the report and the orders passed by the disciplinary authority. The learned lower appellate court noticed a significant fact on record in overruling the decision of the trial Court holding that the disciplinary proceedings had not been initiated against the plaintiff for rash and negligent driving but for causing financial loss to the State exchequer. This fine distinction in law was correctly drawn by the Judge below which I wholeheartedly support as the correct position in law and in fact as suffering from no error.

3. Aggrieved by the judgment and decree passed by the lower appellate court the State has filed this second appeal assailing the judgment and decree of the lower appellate court.

4. I have heard Mr. Indresh Goel for the State of Haryana on the grounds taken in the memorandum of appeal and pressed but find insufficient reason to entertain any of his pleas which would not dislodge the basic issue crystallized by the lower appellate court and answered by observing that the charge-sheet itself was misdirected when extreme punishment was inflicted on financial loss caused to the State as a result of the accident. This situation Mr. Goel cannot tide over however hard he tries to overcome that the charge was not rash and negligent driving imputed against the respondent driver which may have been damaging to the

respondent.

5. There is another reason which dissuades from tinkering with the judgment of the lower appellate court is that this appeal was admitted to regular hearing on February 14, 1991 and stay of the judgment and decree was not granted to the State. I assume that the order must have been implemented and the plaintiff-respondent would have continued in service till in all probability he retired on reaching the age of superannuation.

6. I would therefore find this appeal as one without merit. The judgment in appeal fails to give rise to a substantial question of law within the meaning of Section 100 of the CPC or Section 41 of the Punjab Courts Act, 1918. Accordingly, the appeal is devoid of merit and is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

07.02.2017

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Whether speaking/reasoned *Yes*

Whether reportable *No*