

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

RSA No.3317 of 2013 (O&M)
Date of Decision : 11.12.2017

Balbir Singh

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ashok Arora, Advocate
for the appellant.

Dr. Sushil Gautam, D.A.G., Haryana.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit filed by the appellant.

The appellant had challenged the punishment imposed upon him. The allegation was that he had leaked advance information to a lady who was running a brothel. Regular inquiry was conducted and he was ultimately awarded the punishment of stoppage of five increments with cumulative effect.

Before me the only argument raised was that the copy of the inquiry report was not furnished to the appellant and reliance was placed on the paragraph 29 of the judgment of the Constitution Bench in ***Managing Director, ECIL, Hyderabad and others v. B. Karunakar and others***, reported as ***(1993) 4 Supreme Court Cases 727*** which is quoted herein below :-

“29.Hence it has to be held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has right to

receive a copy of the inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.”

However, in paragraph 31 of that judgment their Lordships have clearly enumerated the prejudice test and have held that if an employee had access to the inquiry report before coming to Court it was incumbent upon him to have pleaded and proved what prejudice was caused to him by the non-supply thereof.

In the present case neither any pleading nor any issue was framed even before the Courts below as to what prejudice was caused to the appellant by the non-supply of the inquiry report.

In the circumstances, it has to be held that the punishment order would be the same in view of the paragraph 31 of ***Managing Director, ECIL (Supra)*** and the subsequent judgments relied upon.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

11.12.2017
pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No