

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 4508 of 2016

Date of Decision: 01.02.2017

Khushwant Singh (since deceased) through his LR's. ... Appellant

Vs.

Punjab State & others

...Respondents

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

Present: Mr. Vishal Handa, Advocate
for the appellants.

RAJIV NARAIN RAINA, J. (Oral)

The petitioner was *ex parte* in the departmental proceedings conducted against him. He was the Patwari. The Charge against him was that he remained wilfully absent from duty for a period about one year without leave sanctioned.

He was served two charge-sheets for the misconduct i.e. one for absence from duty w.e.f. 01.08.1991 to 18.12.1991 and the other from 09.06.1992 to 13.09.1994. He dribbled for time on the pretext that he wanted to take a look at his service-book before he could respond to the charge-sheets. However, he failed to submit replies to the charge-sheets. He was proceeded against *ex parte* by the enquiry officer. In the *ex parte* inquiry the charges were proven. He was served with the copy of the enquiry report to file his reply for further consideration. He did not avail that opportunity either. The disciplinary authority passed the impugned order of dismissal from service. He filed a representation against his dismissal which was not decided by the authority and the plaintiff-appellant filed Civil Writ Petition No. 1015 of 2003 in this Court for directions to

defendant respondents to finalize the proceeding. Taking up the matter the Financial Commissioner Revenue dismissed the appeal. The representation referred to was actually a statutory appeal to the Financial Commissioner which was the petitioner's right to avail in his effort to seek justice. The Financial Commissioner did not agree with the petitioner and dismissed the appeal by upholding the order of dismissal, against which the petitioner approached the Civil Court at Amritsar. Both the Courts have recorded concurrent finding that the order of dismissal is legal and valid and can not be disturbed. In this appeal the complaint is that the petitioner was not heard or listened too. The act and conduct of the petitioner in dis-associating himself from the departmental proceedings would take away his right to assert that he was not heard or he was prejudiced. Hearing must be offered, but it is for the delinquent to take up the offer. The only opportunity available to the petitioner to establish his innocence is now lost in the files of the enquiry report, the judicial files of the two courts below and presently, this Court in second appeal.

No substantial question of law arises in this appeal either under Section 100 of CPC or under Section 41 of the Punjab Courts Act, 1918.

For the reasons above, I find that there is no merit in this appeal and the same is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

01.02.2017
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Whether speaking/reasoned

Yes

Whether reportable

No