

RSA No. 4975 of 2016

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

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**RSA No. 4975 of 2016
Date of Decision: 21.11.2017**

SURJIT SINGH

....APPELLANT

VS

**PUNJAB STATE AGRICULTURAL COOPERATIVE
DEVELOPMENT BANK AND OTHERS**

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. C.S.Singh, Advocate
for the appellant.

Mr. Ashwani Prashar, Advocate
for the respondents.

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 order imposed upon him. The ground for challenge to the punishment order was that the enquiry was conducted in a manner against the law and he was not granted opportunity to cross examine the witnesses.

The Courts below held against the appellant on two grounds primarily. Firstly, they noticed that on 2.3.2009, the appellant was present before the enquiry officer but the matter was adjourned to 9.3.2009; however when the appellant did not appear on 9.3.2009 he was proceeded against ex

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parte. The Courts below rejected the argument that he should have been given a specific notice for 9.3.2009 and held that once he was present on 2.3.2009 and the date was fixed in his presence there was no requirement to give him second notice. The second factor with which weighed the Courts below was that after the conclusion of the enquiry a show cause notice was issued to the appellant but the appellant did not even bother to file any reply to it or raise any objection and thus waived off the right to raise any objection against the conduct of the enquiry. Learned counsel for the appellant is not in a position to show me how this finding is wrong. Once the appellant was present before the enquiry officer on 2.3.2009 and the case was adjourned to 9.3.2009 there was no requirement to issue fresh notice for that date. Secondly, once the show cause notice was issued to him it was the best opportunity for him to have raise all his grouses before the disciplinary authority and it would have been simple for the disciplinary authority to have appreciated them and taken remedial action if required. Instead the appellant first went absent without leave and then became absent in the enquiry proceedings and then even did not bother to file reply to the show cause notice. In the circumstances, the challenge to the validity of the disciplinary proceedings has to be negatived. Learned counsel for the appellant has then argued that on the date when the appellant was removed from service he had more than 20 years of service and this fact has not considered by the disciplinary authority, or the appellate authority or the Courts below. Learned counsel for the respondents has pointed out that this aspect becomes important in a pensionable job because then it is the duty of

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disciplinary authority to consider that even if the employee has to be removed and he has already earned the pension, whether he is entitled to pension also. In the present case, the job which the appellant was holding was not pensionable and during this interregnum he has attained the age of superannuation.

In these circumstances, I have to hold that this is not a case where failure to consider the previous service would render the punishment order invalid.

The appeal stands dismissed.

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

21.11.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No