

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 223

Regular Second Appeal No.5991 of 2014 (O & M)
Date of Decision: September 05, 2017

Ashok Mittal

..... APPELLANT

VERSUS

National Insurance Co. Ltd. & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. S.S. Walia, Advocate, for the appellant.

Mr. S.S. Sidhu, Advocate, for the respondents.

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Jaspal Singh, J

The instant regular second appeal has been preferred by the appellant – plaintiff against judgments & decrees passed by the courts below whereby the civil suit filed by him has been dismissed and appeal also dismissed.

Brief facts of the case are that appellant – plaintiff filed a suit for declaration against the defendants – respondents to the effect that order dated October 16, 2003 passed by the Deputy Manager and Disciplinary Authority, whereby punishment of reduction of basic pay by four stages, has been imposed upon him is illegal, arbitrary, null & void, abinitio against the principle of natural justice, suffers from material irregularities and not binding upon him in any manner whatsoever and

further declaration that order dated July 14, 2014 passed by the Assistant General Manager, whereby his appeal against order dated October 16, 2003 was dismissed, is also illegal, null & void and he is entitled to recover the salary, increments, allowances and consequential benefits with simple interest @ 18% per annum.

It was the case of plaintiff that he was posted as Development Officer at Narwana Branch of defendant No.1. He pleaded that since 1994, he has been functioning, operating and developing business of the defendant- company. Under the verbal orders of Branch Manager of Narwana Branch, in consultation with the then Divisional Manager of defendant No.3, he was shifted to Delhi. He used to collect the business from Delhi and send the insurance cover notes and premium to defendant No.2 regularly. He also took a residential accommodation on lease in Delhi. Plaintiff pleaded that his relations with the then Branch Manager M.M. Garg became sour and he was chargesheeted on March 15, 1999. On October 06, 1999, a second chargesheet was served upon him by altering charge No.1 of earlier chargesheet dated March 15, 1999. Third charge sheet was served upon him on March 24, 2000, amending second charge sheet dated October 06, 1999 and he was charged for insuring a motor vehicle in back date allegedly after the said vehicle had been stolen. Plaintiff pleaded that enquiry was conducted in illegal and arbitrary manner. He was not allowed to summon important defence witnesses.

Defendants contested the suit by filing joint written statement taking preliminary objections and denied the averments made in the plaint. Replication was not filed. From the pleadings of parties, issues were framed. Parties led evidence in support of their respective cases.

After hearing learned counsel for the parties and appreciating the evidence as well as documents on record, suit filed by the plaintiff was dismissed by the trial court vide judgment & decree dated May 11, 2011. Plaintiff filed an appeal, which was also dismissed by the lower appellate court vide judgment & decree dated January 28, 2014, by upholding the decision rendered by the trial court.

Now, appellant – plaintiff has challenged the aforesaid judgments & decrees passed by both the courts below.

Heard.

In the case in hand, appellant – plaintiff has challenged orders dated October 16, 2003 and July 14, 2004 passed by the Disciplinary Authority and Appellate Authority, respectively. Learned counsel for the appellant has given stress on the point that plaintiff was not given fair opportunity at the time of enquiry. The appellant – plaintiff was chargesheeted on four counts viz. for his absence from duty without permission of concerned officer; insubordination to his senior; issued back dated insurance cover note; and issuing cover note for the vehicle which has already been stolen. Enquiry was conducted against the plaintiff and vide order dated October 16, 2003, Disciplinary Authority imposed punishment of reduction of basic pay by four stages. Appeal preferred by the appellant – plaintiff was also dismissed by the Appellate Authority vide order dated July 14, 2004.

There is no plausible explanation regarding absence of plaintiff from October 01, 1997 to August 11, 1999 as well as over-stay of leave. Despite repeated letters issued to him by the concerned authority, he did not opt to respond. Only explanation furnished by the appellant –

a lame excuse. He was posted at Narwana, not at Delhi as per records. Not only this, appellant issued back dated cover note for a stolen vehicle. Ex.DA is the copy of order of State Commission, Delhi, placed on record by the defendants, which depicts that liability was fixed upon appellant qua claim preferred by Smt. Shanti Devi against the National Insurance Company Limited.

It is the case of appellant that he was not allowed to examine witness namely V.P. Bhagat, who had initially investigated the aspect if plaintiff had issued back dated cover note or not, and exonerated him. The competent authority, exercising his prerogative, disagreed with the findings of V.P. Bhagat and ordered fresh enquiry by Mr. Harjit Singh, IPS (retired) and issued fresh memorandum dated November 06, 1999 with list of witnesses Ex.PW6/L dated March 24, 2000 but name of V.P. Bhagat was not included therein. Moreover, it was never the case of plaintiff that documents relied upon by the defendants were not supplied to him. The earlier investigation report of Mr. V.P. Bhagat was only an opinion of his finding which had not been taken into consideration to establish charges against the plaintiff. In other words, plaintiff failed to establish that material relied upon by the enquiry officer in arriving at the conclusion of his guilt was not properly appreciated. Plaintiff also failed to substantiate that he was prejudiced in any manner on account of non-examination of Mr. V.P. Bhagat or that enquiry was not conducted fairly. He was given the right of hearing during enquiry and before imposing punishment. He also challenged the punishment order before the appellate authority. Plaintiff could not substantiate his case that he was treated unfairly or in biased manner.

Moreover, there are concurrent findings recorded by both

record. There is nothing on the record to suggest any interference in those findings or conclusion(s) arrived at by the courts below.

In this view of the matter, this Court is of the considered opinion courts below have dealt with the case in right perspective and the findings returned cannot be faulted with. No interference of this Court is required in well-reasoned judgments of both the courts below which are hereby affirmed. There is no question of law muchless substantial question of law. Finding no merit in the instant regular second appeal, same is hereby dismissed with no order as to costs.

September 05, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No