

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

RSA-1246-2003 (O&M)

Date of Decision: 21.02.2018

The Chief Secretary, Punjab Government and others

... Appellants

Vs.

Surjan Singh

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Rana Harjasdeep Singh, A.A.G. Punjab.

Mr. Vijay K. Jindal, Advocate for the respondent.

P.B. BAJANTHRI J. (Oral)

In the present appeal, appellants have questioned the validity of judgments dated 30.11.1998 and 20.11.2002 passed by the Trial as well as Appellate Court.

2. The respondent while working as a Government Analyst in the office of the Director Health Welfare, Punjab, on the allegations relating to examination of sample of drugs, was subjected to disciplinary proceedings on the allegations that respondent was favouring M/s Jack Sons Pharmaceutical, Amritsar. It was concluded in imposing the penalty of stoppage of reduction to the next lower stage in the time scale for a period of five years. Feeling aggrieved by the order of the disciplinary authority, respondent preferred an appeal. Appeal was rejected on 1.11.1994. Thereafter, respondent filed a suit challenging the order of disciplinary as well as appellate authority. Suit was decreed in favour of the respondent. Thus, the appellant preferred an appeal before the appellate court in which appellants suffered order on 20.11.2002. Hence, the present appeal.

3. Learned counsel for the appellants submitted that disciplinary authority after due consideration of the evidence in respect of the allegations imposed the penalty on the respondent. Whereas trial court has not appreciated the factual aspects and the inquiring officers proceedings so also appellate authority's decision. Thus, both the courts below have erred in not taking note of the inquiry officer's finding on the alleged charge against the respondent. Hence, orders passed by the courts below are liable to be set aside.

4. Per contra, learned counsel for the respondent submitted that trial court has taken note of the inquiry officer's report before decreeing the suit. Finding has been arrived to the effect that there was no iota of evidence on record against the respondent. Therefore, there is no infirmity in the orders passed by the trial as well as appellate court. Hence, present appeal is liable to be dismissed.

5. Heard learned counsel for the parties.

6. Before examining the orders passed by the trial as well as appellate court, it is relevant to peruse the orders of the disciplinary and appellate authority. Both the orders are non-speaking order. Extract of the order reads as under:

“1. Whereas penalty of reduction to the next lower stage in the time scale of his pay for a period of five years with cumulative effect was imposed upon Sh. Surjan Singh Govt. Analyst under the provisions of Rule 8 of the Punjab Civil Services (Punishment & Appeal) Rules 1970, vide Government orders dated 30.04.1991 issued vide endst. No. /21/82-4HB-IV/12412 dated 14.05.1991.

2. Whereas Sh. Surjan Singh has made an appeal dated 20.6.1991 against the above said penalty and where as the comments of Director, Health and Family Welfare on the said

appeal of Sh. Surjan Singh were called for. There is no substance in the said appeal of Sh. Surjan Singh and it is not based on cogent reasons.

3. *Now, therefore, in exercise of the powers conferred by Rule 19 of Punjab Civil Services (Punishment & Appeal) Rules 1970 and all other powers enabling him in this behalf the Governor of Punjab is pleased to reject the appeal of Sh. Surjan Singh Govt. Analyst Punjab.”*

Reading of the order of the appellant authority, it is evident that it is not speaking order. Merely appellate authority seeks comments from the disciplinary authority and thereafter proceeded to pass order. There is no substance in the order. It is not based on cogent reasons. Therefore, there is no infirmity in the order of the trial as well as appellate court. It is to be noted that matter cannot be remanded at this stage having regard to the date of disciplinary authority's order read with the date of retirement of the respondent in the year 2002. Thus, there is no merit in the appeal.

8. Accordingly, appeal stands dismissed.

21.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**