

Sr. No.378

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

**RSA No. 1889 of 1995(O&M)
Decided on: 26.02.2018**

Sant Singh

.....Appellant

versus

Punjab State Electricity Board, Patiala

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Som Nath Saini, Advocate
for the appellant.

Mr. Rajesh Mahajan, Advocate
for respondent.

Rajbir Sehrawat, J.(Oral)

The present appeal has been filed by the plaintiff in the suit challenging the concurrent judgments and decrees passed by the Courts below. For convenience, the parties herein would be referred to as the plaintiff and defendant as they were described in the original suit.

The brief facts of this case are that the plaintiff was working as Junior Engineer-II under the defendant-Punjab State Electricity Board, Bhiwanigarh. Earlier he was charge sheeted on 21.09.1976 for absence from duty as well as for non accounting of the store worth Rs. 1,27,453.90/-.

That charge sheet culminated into an order of punishment of stoppage of two increments without cumulative effect vide order dated 10.02.1985. However, while concluding the earlier disciplinary proceedings it was ordered by the Competent Authority that so far as the charge of shortage of store items is concerned, separate proceedings would be initiated against the plaintiff. As a result, charge sheet Ex:P-8 to Ex: P-11

were subsequently issued to the plaintiff. The department claimed that the same was received by the plaintiff on 16.09.1985. Thereafter, another reminder dated 25.09.1986 was also sent to the plaintiff. But since no reply was filed by the plaintiff, therefore, the order of recovery of Rs.27,980.96/- was passed against the plaintiff. The plaintiff filed the suit challenging this order of recovery passed by the Competent Authority against him as illegal, null and void.

The defendant on being put to notice filed written statement and justified the action taken by it. It was pleaded that despite having been served the charge sheet, the plaintiff failed to file reply to it. Therefore, a minor punishment of recovery of shortage was passed against the plaintiff under Regulation 5(iii) of Punjab State Electricity Board Employees Punishment and Appeal Regulations 1971.

After hearing the parties and appreciating the evidence, the Trial Court dismissed the suit filed by the plaintiff.

The Trial Court recorded a finding that the charge sheet was duly served upon the plaintiff. However, he failed to file reply to the same. Since the punishment imposed upon the plaintiff was a minor punishment, therefore, no regular inquiry was required to be conducted by the department in the matter. Challenging this judgment and decree the plaintiff filed the appeal before the lower Appellate Court.

However, the lower Appellate Court also dismissed the appeal filed by the plaintiff. While dismissing the appeal, the findings recorded by the Trial Court were upheld by the lower Appellate Court. The additional argument raised by learned counsel for the appellant before the lower Appellate Court was also dealt with and it was held that mere lapse of time

would not lead to lapsing of the charge. Still further the argument of learned counsel for the appellant that the fresh inquiry on the same charge was not warranted; because the earlier another inquiry on the same charge conducted by the department, was also rejected by the lower Appellate Court. Feeling aggrieved against the said judgment and decree, the present appeal has been preferred by the appellant.

While arguing the appeal, learned counsel for the appellant submits that the order impugned in the suit stood vitiated because it was passed without serving any notice upon the plaintiff. Further, learned counsel submits that since this argument has not been appreciated by the Courts below, therefore, even the judgments and decrees passed by the Courts below stand vitiated. His argument is that he was never served with the charge sheet for which the order of recovery impugned in the suit was passed.

On the other hand, learned counsel for the respondent submits that the charge sheet was duly served upon the plaintiff. Not only this even the reminder was sent to the plaintiff. However, the plaintiff did not even file reply to the charge sheet. According to learned counsel for the respondent this tantamount to admission of the amount of recovery by the plaintiff. The office was left with no alternative except to pass the order of recovery, since no regular inquiry was required for minor punishment of recovery of an amount of about Rs.27,986/-.

Having heard the learned counsel for the parties, this Court finds substance in the argument of learned counsel for the respondent. Although learned counsel for the appellant has submitted that he was not served any charge sheet relating to the recovery in the present case,

however, he has not even pleaded this fact in the plaint. He has not lead any evidence to show that the charge sheet in question was not received by him.

On the other hand, the document Ex:D-1 shows that the charge sheet was duly received by the plaintiff/appellant. Even if this document is not taken into consideration, there is another document Ex:P-12, which was a reminder to the plaintiff to file reply to the charge sheet. Even the plaintiff did not dispute receiving this reminder. Despite that, neither any reply was filed nor any documents were demanded by the plaintiff from the respondent so as to enable him to file reply. In fact, the plaintiff remained totally silent on the issue. Hence the respondent had rightly passed the order of recovery against the plaintiff.

Another argument raised by learned counsel for the appellant is that the amount alleged in the subsequent charge sheet was part of the earlier charge sheet also. Therefore, the reply filed in the earlier charge sheet should have been taken into consideration by the respondent. However, this argument is also liable to be rejected. The earlier proceedings had culminated into final order of punishment against the plaintiff. Regarding the charge of recovery it was ordered by the Competent Authority in the earlier proceedings that the matter would be dealt with separately. Accordingly, fresh charge sheet for the recovery was issued to the plaintiff wherein the amount sought to be recovered from the plaintiff was reduced from earlier amount of Rs. 1,27,453.90/- to an amount of Rs. 27,980/-. A separate and specific charge sheet was given to the plaintiff. He was required to file reply to this charge sheet. However, he failed to even file reply to the charge sheet. Therefore, he can not make a complaint that he was not heard before passing the order impugned in the suit. Since as per

the regulations of the respondent- Board, the punishment of recovery of the amount is a minor punishment, therefore, no regular inquiry was required to be conducted by the respondents. Hence the respondent has rightly passed the order of recovery against the plaintiff. Both the Courts below have appreciated the evidence in the right earnest and have rightly held that respondents have passed the orders in accordance with law.

Finding no illegality or perversity in the judgments and decrees passed by the Courts below, the present appeal is dismissed being devoid of any merits.

26th February, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*