IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-3955-1998 (O&M)
Date of Decision:- 23.02.2018

Kewal Krishan Singla

.....Appellant

Versus

Administrator Municipal Committee and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Pawan Kumar, Senior Advocate
with Mr. Vipin Kumar, Advocate, for the appellant.

Mr. M.L. Saini, Advocate, for respondents No.1 and 2.

Mr. Amit Mehta, Sr. DAG, Punjab.

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MAHABIR SINGH SINDHU, J.

Present Regular Second Appeal has been filed by the plaintiff-appellant against the impugned judgment and decree dated 14.02.1998, passed by learned Additional District Judge, Patiala vide which his first appeal, against the judgment and decree dated 16.03.1992, rendered by learned Senior Sub-Judge, Patiala, has been dismissed.

2. Brief facts of the case are that the plaintiff-appellant filed a civil suit for declaration on 11.08.1988 to the effect that action of the defendants-respondents while not allowing him to join his duties on the post of clerk as well as the charge-sheet dated 30.10.1985, enquiry proceedings and consequential orders for withholding the salary are

Naresh Kumar
2018.04.06 12:19
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illegal, null and void and against the service rules. Further prayer is that he is entitled to all the service benefits along with continuity of service and mandatory injunction against the defendants-respondents to give him all benefits for the above-said post by treating him in service right from February, 1972 along with interest @ 18% per annum till its realization.

3. It is the case of the plaintiff-appellant that he was appointed as a clerk in the office of Municipal Committee, Patiala-defendant (respondent No.2) in the year 1972 on regular basis and later on he was confirmed and while working as such he proceeded on leave w.e.f. 03.02.1982. Thereafter, he reported for joining the duties to the Executive Officer, but was not allowed. It is further averred that the plaintiff-appellant again reported for joining on 01.10.1985, but he was neither allowed to join his duties; nor joining report was received in the concerned office. Consequently, the plaintiff-appellant sent his request under a registered cover on 01.10.1985 to the defendants-respondents and in response thereto, the Executive Officer, vide memo No.2950 dated 18.10.1985 asked the appellant-plaintiff to explain about his leave. It is further alleged that without waiting for the reply to the memo dated 18.10.1985, the Executive Officer, issued charge-sheet vide memo No.3051 dated 30.10.1985 regarding the absence from duty w.e.f. 03.02.1982. It is further pleaded that before receipt of charge-sheet, the plaintiff-appellant submitted his reply dated 02.11.1985 to the concerned officer in response to the earlier notice memo dated 18.10.1985 to the effect that he had been sending his leave applications to the defendants-respondents time and again; but no action has been taken against him on

Naresh Kumar
2018.04.06 12:19
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account of his absence from duty and he has a legal right to join his duties. Despite the above factual position, defendants/respondents did not allow him to join the duties on the ground that disciplinary proceedings had already been started against him. Thereafter, the plaintiff-appellant submitted his reply dated 13.11.1985 in response to memo dated 30.10.1985 and also attached a copy of his earlier reply dated 02.11.1985 by submitting that memo dated 30.10.1985 was received by him only on 13.11.1985. Thereafter, the defendants-respondents vide memo No.4114 dated 10.01.1986 appointed Balbir Singh, Superintendent as Enquiry Officer and Amar Nath Tyagi, as Presenting Officer, for conducting regular departmental enquiry regarding the charge-sheet issued vide memo dated 30.10.1985. Consequently, the plaintiff-appellant received intimation from the Enquiry Officer to attend the enquiry proceedings on 16.01.1986, which was duly attended by him and thereafter he again received memo dated 04.03.1986 for attending the enquiry on 12.03.1986. It is also pleaded that the plaintiff-appellant never absented from the enuqiry proceedings, but no witness was examined by the defendants-respondents against him and the enquiry was completed in the middle of the year 1986. Thereafter, the plaintiff-appellant did not receive any communication or intimation in connection with charge-sheet dated 30.10.1985 as well as inquiry proceedings and he repeatedly visited the office of defendants-respondents to allow him to resume his duties, but of no use. Again, the plaintiff-appellant submitted his representation dated 03.11.1987 to the Executive Officer, followed by another reminder on 24.02.1988; but no action was taken in this regard by the defendants-

Naresh Kumar
2018.04.06 12:19
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respondents.

Despite all above, the plaintiff-appellant was not allowed to join his duties, thereafter he got served a legal notice dated 02.06.1988, but all in vain and ultimately, that led to filing of the present suit.

4. Plaintiff-appellant raised various grounds in para 15 of the plaint, *inter-alia*, to the effect that (i) no order has been passed by the competent authority for not allowing him to join his duties after he reported for joining after availing the leave; (ii) there is no provision of law under which the defendants could refuse the plaintiff-appellant from joining his duties; (iii) there is no resolution passed by the Committee authorizing the Executive Officer to issue the charge-sheet dated 30.10.1985; (iv) that the Executive Officer is not an appointing authority as the appellant was appointed by the Municipal Committee, Patiala; (v) the appointment of Enquiry Officer by Executive Officer is without jurisdiction; (vi). the plaintiff-appellant cannot be deprived of his legal rights and status for the post of clerk in the shape of salary and other allowances by the Executive Officer of the Committee; (vii) there is no enquiry held by the defendants-respondents as per service rules and thus, not allowing the plaintiff-appellant to join his duties on the post of clerk is without jurisdiction and the same amounts to removal from service without following the procedure prescribed under the service rules; (viii) there is no authority with the Executive Officer to withhold the salary of appellant-plaintiff after submission of his joining report and the same amounts to abuse and misuse of the power and authority; (ix) no prosecution witness ever appeared during the enquiry proceedings to

Naresh Kumar
2018.04.06 12:19
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depose against the plaintiff-appellant and as such the charges have not been proved against him.

5. Defendants-respondents filed their written statement and admitted the contents of para No.1 of the plaint to the effect that the plaintiff-appellant was appointed as clerk and rest of the contents were denied on account of lacking the full particulars. Paras No.2 and 3 of the reply are simply denial being wrong. In reply to para 4, it is submitted that the plaintiff-appellant never submitted his joining report and he be put to strict proof for making any such registered post. Issuance of charge-sheet as well as appointment of enquiry officer have been duly admitted. Paras No.7 to 14 of the plaint are not specifically denied; rather the same is either admitted or there is only a simple denial being wrong. Again in reply to para 15(ii) it has been submitted that "Municipal Committee has never refused the plaintiff-appellant to join his duties but the enquiry is pending against him".

6. The plaintiff-appellant filed his replication to the written statement and reiterated his submissions made in the plaint and submitted that entire record of the case is with the defendants-respondents including his personal file as well as service book and the same can be verified from their records. In replication to para 11 of the written statement it has been specifically submitted that the "plaintiff was never intimated that he did not attend the enquiry in response to their intimation."

7. On the basis of pleadings of both the parties, the learned trial Court framed six issues and which read as under: -

"1. Whether the enquiry proceedings and charge-sheet dated

Naresh Kumar
2018.04.06 12:19
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30.10.1985 is illegal, null and void on the grounds mentioned in the plaint? OPP.

2. Whether the plaintiff is entitled to injunction as prayed for? OPP.

3. Whether this Court has got no jurisdiction to try the suit? OPD.

4. Whether jurisdiction of the Civi Court is barred? OPD

5. Whether the suit has not been properly valued for the purpose of Court fee and jurisdiction? OPD

6. Relief."

8. During the pendency of the civil suit, the plaintiff-appellant moved an application under Order 39 Rules 1 & 2 CPC for directing the defendants-respondents to allow him to join his duties on the post of Clerk subject to the outcome of the civil suit and the same was accepted by learned trial Court, vide order dated 06.09.1990 and consequently he was allowed to join his duties subject to the final outcome of the civil suit.

9. In order to prove his case, plaintiff-appellant examined HRC Dharampal, office of Deputy Commissioner of Patiala as PW-1 and he himself appeared as PW-2 and produced the following documentary evidence:-

(i) Ex.P1 – Memo No.2950 dated 18.10.1985.

(ii) Ex.P2 – Memo No.3051 dated 30.10.1985.

(iii) Ex.P3 – Reply dated 02.11.1985 to memo No.2950 dated 18.10.1985.

(iv) Ex.P4 – Postal receipt dated 04.11.1985.

(v) Ex.P5 – Reply dated 13.11.1985 to memo No.3051 dated 30.10.1985.

Naresh Kumar
2018.04.06 12:19
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(vi) Ex.P6 – Postal receipt dated 13.11.1985.

(vii) Ex.P7 – Memo No.4144 dated 10.01.1986

(viii) Ex.P8 – Memo No.4244 dated 16.01.1986.

(ix) Ex.P9 – Memo No.5094 dated 04.03.1986.

(x) Ex.P10 – Reply dated 31.01.1987 to memo No.4144 dated 10.01.1986.

(xi) Ex.P11 – Postal receipt dated 31.01.1987.

(xii) Ex.P12 – Letter dated 24.02.1987.

(xiii) Ex.P13 – Postal receipt dated 'nil'

(xiv) Ex.P14 – Joining report dated 16.10.1989.

(xv) Ex.P15 – Postal receipt dated 16.10.1989.

(xvi) Ex.P16 – Postal receipt dated 02.06.1988.

(xvii) Ex.P17 Legal notice dated 02.06.1988

10 On the other hand, the defendants-respondents examined H.R. Goel, Accountant, MC, Patiala as DW-1.

11. Learned trial Court while deciding issues No.1 and 2 came to the conclusion that there is no evidence on record as to whether the disciplinary proceedings initiated against the plaintiff-appellant have been continued or have been dropped, but in view of his willful absence from duty w.e.f. February, 1982 till the plaintiff resumed his duties, he was held not entitled to any pay and allowances. It was further observed that the absence from duty be treated as leave of the kind due in order to condone the break in service. Issues No.3, 4 and 5 were decided against the defendants-respondents. Ultimately the suit of the plaintiff was partly decreed, vide judgment and decree dated 16.03.1992 and mandatory injunction was issued directing the defendants-respondents to treat the

Naresh Kumar
2018.04.06 12:19
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period of absence of the plaintiff from February, 1982 till he resumed his duties as clerk as leave of the kind due to condone the break in service. The plaintiff was held not entitled to any pay and allowances for the absence period.

12. Aggrieved against the judgment and decree passed by the learned trial Court, an appeal was preferred by the plaintiff-appellant; but the same was dismissed by learned Additional District Judge, Patiala while passing the impugned judgment and decree dated 14.02.1998.

13. Learned first appellate Court in paragraph 12 of the impugned judgment observed that the plaintiff-appellant "has failed to place on the file his leave application or the order of the Municipal Committee, by which his leave application was sanctioned w.e.f. 03.02.1982. Therefore, the oral version of the plaintiff-appellant that he had proceeded on leave w.e.f. 03.02.1982 and his leave was duly sanctioned by the competent authority of the defendants is not proved on the file." Further in paragraph 14 it has been observed that there is no evidence on record to prove that after 03.02.1982 he has sent any letter or reminder to the defendants-respondents and consequently, the submissions of the plaintiff-appellant were rejected being beyond the scope of the pleadings as well as without any evidence. Again learned first Appellate Court in paragraphs 15 and 16 observed that there is no evidence on record to prove that the plaintiff-appellant has proceeded on leave w.e.f. 03.02.1982 or that he remained on leave onwards till 01.10.1985 and thus, observed that the plaintiff remained absent from duty w.e.f. 03.02.1982 till 01.10.1985. It is further observed that there is

Naresh Kumar
2018.04.06 12:19
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neither any original joining report dated 01.10.1985; nor its copy has been proved from where it could have been concluded that as to on how many occasions the plaintiff-appellant had gone to the office of defendants-respondents for reporting his duties. It is also observed by learned first Appellate Court that the plaintiff has withheld the copy of joining which could give rise to the presumption in his favour that he had gone to the office of Municipal Committee. Learned first Appellate Court has also observed that reply dated 04.11.1985 as well as 13.11.1985 (Ex.P5) are vague and ultimately in para 22 of the impugned judgment, it has been concluded that plaintiff-appellant has neither got sanctioned any leave w.e.f. 03.02.1982; nor applied for leave even thereafter and he remained absent w.e.f. 03.02.1982 till he joined his duties under the order passed by learned trial Court w.e.f. 01.10.1990 and thus, it was a fit case where the services of the plaintiff-appellant should have been terminated for his wilful absence from duty. Learned first Appellate Court further observed that the absence from duty was willful, therefore, the plaintiff-appellant is not entitled to any pay and allowances and upheld the judgment and decree passed by learned trial Court.

14. Hence, the present Regular Second Appeal.

15. It is argued by learned counsel for the plaintiff-appellant that the impugned judgments and decrees passed by both the Courts below are not legally sustainable in view of the fact that no inquiry report has been submitted by the Inquiry Officer in pursuance of charge-sheet dated 30.10.1985 and as such neither the charges of absence from duties are proved; nor any punishment order has been passed by the competent

Naresh Kumar
2018.04.06 12:19
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authority as per the service rules to deny the benefit of pay and allowances to the plaintiff-appellant w.e.f. 03.02.1982 to 01.10.1990, but both the learned Courts below while acting like disciplinary authorities have denied his lawful claim and as such the same is without jurisdiction.

16. On the other hand, learned counsel for the defendants-respondents opposed the contention of learned counsel for the plaintiff-appellant and submitted that the impugned judgments and decrees passed by both the Courts below are legally sustainable and do not require any interference by this Court in view of the fact that the plaintiff-appellant remained absent from duties w.e.f. 03.02.1982 till he joined his duties on 01.10.1990 and as such appeal deserves to be dismissed.

17. Heard both the sides and perused the record carefully.

18. The point for determination as a substantial question of law in the present case is “whether in the absence of any punishment order by the competent authority, the impugned judgments and decrees passed by both the learned Courts below while denying the benefit of pay and allowances to the plaintiff-appellant w.e.f. 03.02.1982 up to 01.10.1990, is legally sustainable or not?”

19. The service conditions of the different cadres of employees of the Municipal Committees in the State of Punjab including the post of Clerk are governed under the provisions of the Punjab Municipal Services (Recruitment and Conditions of Service) Rules, 1975 (for short 'Service Rules').

Rule 12 of the Service Rules, deals with the 'Punishment and Appeal' and which reads as under: -

Naresh Kumar
2018.04.06 12:19
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> "(1) The Punjab Civil Services (Punishment and Appeal) Rules, 1970, shall apply to the members so far as they are not inconsistent with the provisions of the Punjab Municipal Act, 1911.
>
> (2) The authority empowered to impose penalties and the appellate authority in respect of a category of posts in Services shall be as specified against that category in Appendix 'C'.
>
> (3) The appellate authority to hear an appeal against an order specified in rule 15 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, shall be the Government."

Rule 19 of the Service Rules, talks about 'Record of Service' and which reads as under: -

> (1) There shall be personal file for every member in which shall be placed all papers, record and other documents relating to his service. The file shall contain in particular a service book giving history of service from the date of his appointment, promotion, reward, punishment and all other special events of his career. The service book shall also contain the leaver account from showing a complete record of leave (except casual leave).
>
> (2) A confidential file shall be also maintained for each member :
>
> Provided that Government may, if it so decides, make such arrangement as it may deem necessary to maintain, in addition, a centralised record of leave, pay and service of members."

Perusal of Rule 12(1) of Service Rules reproduced hereinabove clearly reveals that the Punjab Civil Services (Punishment & Appeal) Rules, 1970 (for short 'Punishment & Appeal Rule') shall apply to the members so far as they are not inconsistent with the provisions of

Naresh Kumar
2018.04.06 12:19
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the Punjab Municipal Act, 1911.

The relevant part of Rule 5 of the Punishment & Appeal Rule being material reads as under: -

> **"(5) Penalties: -**Following penalties may for good and as hereinafter, be imposed on a Government employee namely: -
>
> **Minor Penalties**
>
> (i) censure;
>
> (ii) Withholding of his promotion;
>
> (iii) Recovery form his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or branch of orders;
>
> (iv) withholding increment of pay without cumulative effect.
>
> **Major Penalties**
>
> (v) withholding of increments of pay with cumulative effect or reduction to a lower stage in the time scale of pay for a specified period. With further direction as to whether or not the Government employed will earn increments of pay during the period of such reduction and whether on the expiry of such period reduction will or will not have the effect of postponing the future increments of his pay.
>
> (vi) reduction to lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employed to the time-scale of pay, grade, post or service from which he was reduced. With or without further directions regarding condition of restoration to the grade or post or service form which the Government employed was reduced and his seniority and pay on such restoration to that grade, post or service
>
> (vii) compulsory retirement;
>
> (viii) removal form service which shall not be a disqualification for further employment under the Government;
>
> (ix) dismissal form service which shall ordinarily be a disqualification for future employment under the Government."

Naresh Kumar
2018.04.06 12:19
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20. From the perusal of the impugned judgments and decrees passed by both the learned Courts below, it is duly proved that the plaintiff-appellant was appointed on the post of clerk with the defendants-respondents in the year 1972 and later on he was confirmed. This is also an admitted fact that the appellant-plaintiff had proceeded on leave w.e.f. 03.02.1982, and while appearing as PW2 in his cross-examination, he has specifically stated that first leave application submitted by him is entered in the register at Sr. No.412 dated 04.02.1982 and thereafter another leave application was entered at Sr.2689 dated 26.09.1983 and since then, he has been sending letters for leave and the same are duly entered in the record up to 26.09.1983. It has been further stated that the plaintiff-appellant has been sending off and on his leave applications through family members as well as under post and there was no intimation regarding not sanctioning of his leave and he remained on leave up to 1985.

21. DW-1 HR Goel, Accountant, MC, Patiala, has deposed that the plaintiff had gone on leave w.e.f. 03.02.1982 and he admitted the joining report dated 01.10.1985. This witness has admitted that plaintiff-appellant joined his duties on 01.10.1990 as per orders of the learned trial Court and the Municipal Committee is willing to treat the period of absence w.e.f. 03.02.1982 to 30.09.1990 as period of leave without pay and he was entitled to leave whichever is due to him.

22. Testimony of DW-1 clearly proves that plaintiff-appellant proceeded on leave from 03.02.1982 by giving an application and thereafter he submitted his joining report dated 01.10.1985, but the same

Naresh Kumar
2018.04.06 12:19
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was neither accepted nor rejected; rather he received a communication dated 18.10.1985 (Ex.P1), whereby he was asked to submit any proof with regard to proceeding on leave within three days, failing which, it was pointed out that departmental action will be taken against him for remaining absence from duty, but without waiting for the reply of letter dated 18.10.1985, the plaintiff-appellant was issued a charge-sheeted dated 30.10.1985 (Ex.P2) and thereafter, enquiry officer was also appointed.

23. So far as the appointment of enquiry officer is concerned, the same is not in dispute and as per the assertion made by the plaintiff-appellant in para 13 of plaint as well as in his letter dated 31.01.1987 (Ex.P-10), the enquiry was completed in the middle of 1986 and this fact is further tried to be supported by him while appearing as PW-2 also. Although there are two letters dated 23.01.1986 and 12.03.1986 issued by the enquiry officer for fixing the date of inquiry proceedings, but there is no communication subsequent thereto, despite the fact that the plaintiff-appellant continuously went on writing letters dated 24.02.1987 (Ex.P12), 16.10.1989 (Ex.P14) as well as legal notice dated 02.06.1988 (Ex.P17). There is nothing concrete on record that any final decision was ever taken in the enquiry proceedings. Thus, it can be safely concluded that charges levelled against the plaintiff-appellant were not proved in the departmental inquiry and even no enquiry report has been placed on record by the defendants-respondents also. Still further, there is no adverse order at all passed by the defendants-respondents for withholding the pay and allowances of plaintiff-appellant with regard to his absence

Naresh Kumar
2018.04.06 12:19
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from duties. Even there is no dispute that the plaintiff-appellant was allowed to join his duties in pursuance of the interim order dated 06.09.1990, passed by the learned trial Court and he immediately joined his duties and ultimately retired on attaining the age of superannuation. Therefore, it can be safely concluded that plaintiff-appellant was always ready and willing to join his duties, but defendants-respondents did not allow him to join his duties for the reasons best known to them.

24. It has also come on record that the plaintiff-appellant moved an application dated 11.11.1989 before learned trial Court for summoning of the record from the office of the defendants-respondent, but the same was not produced without any justification and which is very well maintained being obligatory in terms of Rule 19 of the Service Rules reproduced in para 19 of this judgment. It is categorically stated by the plaintiff-appellant in his cross-examination that he submitted his application for leave for six months in the year 1982 and in response to the question put by learned trial Court, he replied that his father used to remain sick as he was a diabetic patient and he had to get him treated from Chandigarh and Delhi and he was also a TB patient. It has further been stated in his cross-examination that most of the time, his father used to remain on bed and he got his leave sanctioned for 6 (six) months from the Executive Officer, Sh. J.C. Goel and he received his salary up to 31.01.1982, but thereafter he did not get any salary. He further stated in his cross-examination that he was not informed whether his leave was sanctioned or not. He again stated that his first leave application is duly entered in the register at Sr. No.412 dated 04.02.1982 and thereafter

Naresh Kumar
2018.04.06 12:19
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another application at Sr.No.2689 dated 26.09.1983 and the subsequent letters for leave which were duly entered up to 26.09.1983. It has further been stated in his cross-examination that he used to send the applications through his family members as well as through post. He has also stated that he did not consider it necessary to see whether the leave has been sanctioned or not as there was no intimation regarding non-sanctioning of his leave by the Committee and he remained on leave up to 1985. He has specifically denied the suggestion that his leave was not sanctioned or that he was absent from duties. He further stated that he submitted his joining report in the year 1985.

25. As discussed above, (DW-1) H.R. Goyal, Accountant, MC, Patiala, admitted that the plaintiff-appellant had gone on leave w.e.f. 03.02.1982 and he submitted his joining report on 01.10.1985 and as such these facts are not in dispute. Moreover, there is nothing on record that request of the plaintiff-appellant for proceeding on leave w.e.f. 03.02.1982 was ever rejected by the defendants-respondents and as such the learned first Appellate Court has gone wrong while concluding in paras No.15 and 16 that there is no evidence on record to prove that the plaintiff-appellant proceeded on leave w.e.f. 03.02.1982.

26. Thus, there is no dispute that the plaintiff-appellant submitted his joining report dated 01.10.1985 and that fact is specifically admitted by DW-1 as well as acknowledged by the defendants-respondents in their letter/memo dated 18.10.1985 (Ex.P1). It has come on record that the plaintiff-appellant kept on submitting his repeated representation and reminder to join his duties till his application

Naresh Kumar
2018.04.06 12:19
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for interim prayer was allowed by the learned trial Court on 06.09.1990 and he joined his duties w.e.f. 01.10.1990 and continuously went on writing and reference can be made to letters/reminders Ex.P1, Ex.P3, Ex.P5, Ex.P10, Ex.P12, Ex.P14 & Ex.P17.

27. Both the learned Courts below categorically recorded the findings to the effect that there is no enquiry report submitted by the Enquiry Officer against the plaintiff-appellant in pursuance of charge-sheet dated 30.10.1985 (P-2). Even, there is nothing on record or in the pleadings of the defendants-respondents that any adverse order was ever passed against the plaintiff-appellant on account of his absence from duties for withholding his salary and other allowances by treating this period without pay in terms of Service Rules or Punishment & Appeal Rules, but despite that both the Courts have denied the lawful claims without any valid reason.

28. The facts and circumstances discussed hereinabove clearly prove that the plaintiff-appellant was denied to join his duties as well as salary despite the fact that he was a regular employee of the Committee and thus, the same amounts to removal from service without there being any punishment order passed by the competent authority under the Punishment & Appeal Rules and consequently both the Courts have gone wrong while not taking into consideration this aspect of the matter. There is no doubt that for a proved charge of willful absence from duty, the plaintiff-appellant could have been inflicted the major punishment including removal from service; but in the absence of any inquiry report to prove the charge of willful absence it is not conceivable as to how and

Naresh Kumar
2018.04.06 12:19
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under which provision of law he had been denied to join his duties and the benefit of salary despite the fact that the plaintiff-appellant was always ready and willing to perform his duties. Thus, it is only the defendants-respondents who did not allow him to join his duties for the reasons best known to them. This fact is further substantiated by the circumstances that the plaintiff-appellant moved an application for interim relief to join his duties and the moment it was allowed by learned trial Court he immediately joined his duties and which indicates that fault lies with the defendants-respondents and not on plaintiff-appellant. Therefore, this Court has no hesitation to come to the conclusion that the defendants-respondents are responsible while not allowing the plaintiff-appellant to resume his duties at least w.e.f. 01.10.1985 and for that the plaintiff-appellant should not suffer. Thus, the circumstances speak volumes that it is the defendants-respondents who are taking the benefit of their own wrongs and which cannot be permitted in the interest of justice.

29. Since the learned trial Court has decreed the suit of the plaintiff-appellant in part to the effect that his absence from 03.02.1982 till his joining i.e. 01.10.1990 be treated as 'leave of kind due' to avoid any break in service; but there is no occasion to deny him the benefit of salary and other service benefits w.e.f. 01.10.1985, when he admittedly submitted his representation to resume his duties after availing the leave.

30. In view of above, the judgment and decree passed by the learned first appellate Court while affirming the judgment and decree passed by the learned trial Court are set aside and it is held that the

Naresh Kumar
2018.04.06 12:19
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plaintiff-appellant shall be entitled to actual service benefits i.e. pay and the allowances with effect from 01.10.1985.

31. Since the break in service of the plaintiff-appellant has already been condoned by both the Courts below w.e.f. 03.02.1982 till his joining i.e. 01.10.1990, for streamlining his service record, therefore, no further directions are required in the matter.

32. Regular Second Appeal is allowed in the above terms.

(MAHABIR SINGH SINDHU)
JUDGE

February 23, 2018
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Whether speaking/reasoned	Yes
Whether reportable	Yes

Naresh Kumar
2018.04.06 12:19
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