

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1366 of 2012

Date of Decision:-08.02.2018.

Kartar Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Vijay Lath, Advocate for the appellant.

Mr. R.S. Chahal, Additional A.G. Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant appeal, appellant has questioned the validity of decree as well Appellate Court order dated 12.11.2002 and 30.09.2011, respectively.

(2.) Appellant while working as a Clerk he was subjected to disciplinary proceedings on the allegation of certain misdeeds committed by him. It was concluded in imposing the penalty of dismissal from service on 27.04.1994. Feeling aggrieved by the order of dismissal, he had preferred appeal before the Appellate Authority. Appellate Authority affirmed the decision of the disciplinary authority on 25.03.1996. Still aggrieved by the decision of the Appellate Authority, appellant filed a suit insofar as challenging the order of dismissal as well as Appellate Authority's order.

Suit was rejected. Consequently, he preferred appeal before the Appellate

Court. Appellate Court affirmed the decision of the Trial Court. Hence, the present appeal.

(3.) Learned counsel for the appellant submitted that against the order of dismissal, he had preferred an appeal in which he has taken number of contentions. Appellate Authority has failed to consider each of the contentions. Merely he has referred to the allegations and holding of inquiry and imposition of penalty. Both the Courts below have not appreciated relating to non-consideration of the petitioner's appeal by the Appellate Authority. Therefore, decree as well as Appellate Court order are liable to be set aside.

(4.) *Per contra*, learned counsel for the respondents submitted that Appellate Authority had given oral hearing to the appellant. Thus, there is a substantial compliance in deciding the appellant's appeal against the order of dismissal. It was further submitted that both the Trial Court and Appellate Court have appreciated factual aspects including the admission made by the appellant in respect of misdeeds with reference to the charge sheet. In view of these facts no interference is called for. It was also submitted that concurrent finding has been given by the Courts below.

(5.) Heard learned counsel for the parties.

(6.) Crux of the matter in the present case is whether Appellate Authority who is a quasi-judicial authority under Rule 19 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 has passed considered order or not? The object of filing appeal by aggrieved employee is to consider each of the contentions. Whereas the Appellate Authority's order reads as under:-

ORDER

“Sh. Kartar Singh former Clerk, Office of the Directorate of Employment Punjab was dismissed from service vide his order No.A (215)/94/11830-913 dated 27.4.94 on the basis of the report of the Inquiry officer. He has made an appeal to the Government and in this regard I had given him a personal hearing on 13th March, 1996. During hearing, Sh. Kartar Singh accepted his guilt but requested for lighter punishment.

2. I have gone through the Inquiry Report and also the record of the office of the Directorate and has come to conclusion that submission of bogus lists amounts to misconduct and dishonesty. Hence the punishment awarded to him under the Punishment and Appeal Rules, 1970 is just. He deserves no leniency in the punishment already awarded to him. In these circumstances, there is no merit in his appeal. Hence, I reject his appeal.

*Dated, Chandigarh
the 13th March, 1996.*

*(K.S. Janjua)
Principal Secretary to Govt. of Punjab,
Department of Labour & Employment.”*

Appellant in his memorandum of appeal dated 8.8.1994 has taken number of contentions. Perusal of the decision of the Appellate Authority, it is evident that not even a single contention has been considered by the Appellate Authority. What has been referred is events like holding of inquiry and imposition of penalty. Thus, it is not a speaking order and it is also not in terms of statutory provision of Rule 19 of Rules, 1970 as to how the Appellate Authority is required to consider the appeal. Accordingly, Appellate Authority order dated 13.03.1996 is set aside. Consequently decree as well as Appellate Court order are set aside. Matter is remanded to

the Appellate Authority to decide appellant's appeal afresh in terms of Rule 19 of Rules, 1970. Appellate Authority is hereby directed to consider each of the contention raised in his appeal within a period of six months from today.

(P.B. BAJANTHRI)
JUDGE

February 08, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.