

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.5149 of 2016

Date of Decision : 28.05.2018

Santosh Kumar

.....Appellant

Versus

Harpreet Singh Dhammi, SDE (GSM)

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Maninder Arora, Advocate for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the plaintiff was dismissed by the trial Court, vide judgment and decree dated 3.9.2014. As even the appeal preferred against the said decree failed and was dismissed on 11.01.2016. The plaintiff is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff filed a suit for recovery of damages against the defendant. Briefly, the case set out by the plaintiff has been that he was working as J.T.O (GSM), GRDM, Telephone Exchange, Amritsar in the year 2007. He never remained absent from duty. However, with a view to harass the plaintiff, the defendant being his immediate boss, served him with a memo dated 8.6.2007, imposing a penalty of '**diesnon**' and directed A.O. (Cash) for recovery of one day salary from the plaintiff. Thus, it was pleaded that defendant not only passed an illegal order of '**diesnon**' but

even lowered his reputation by abusing him in the presence of his subordinate and colleagues on 8.6.2007, thus, the suit.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the plaintiff had failed to lead any evidence to show if he actually suffered any loss or damages owing to the order of '**diesnon**' dated 8.6.2007, passed by the defendant. In any case, the said order had since been revoked by DE/CMTS Amritsar on 9.5.2008. The plea that the plaintiff was abused by the defendant on telephone also remained un-substantiated for lack of cogent evidence. Nothing was brought on record either to show the basis upon which the plaintiff had assessed and made a claim for damages. Further, even though, the evidence on record showed that the ACR of the plaintiff was recorded by the defendant which was not satisfactory but that could hardly be an evidence to hold that the plaintiff was indeed a victim at the instance of the defendant. If the plaintiff himself was found wanting to perform his duties to the satisfaction of his superiors he could not attribute any fault to the defendant. No evidence was led either to show if the defendant had any enmity with the plaintiff. That being so, the only and the inevitable conclusion that could be reached: suit filed by the plaintiff was wholly mis-conceived and devoid of merit.

On being pointedly asked, learned counsel for the appellant could not point out anything from the record to show if the conclusion arrived at by both the Courts was either contrary to the record or suffered from any material illegality. Thus, no question of law, much less any

substantial question of law, arises for consideration in this appeal. The same being devoid of merit is accordingly, dismissed.

28.05.2018

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No