

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

RSA 3320/2017 (O&M)
Date of decision:18.07.2018

Jhirmal Singh

.....Appellant.

v.

Punjab State and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Ashwani Kumar Chopra,Senior Advocate assisted by
Mr.Akshit Chaudhary,Advocate for the appellant.

Jaswant Singh,J,(Oral).

Plaintiff/appellant is in second appeal against concurrent findings returned by the Courts below whereby his suit for declaration was dismissed by Civil Judge (Junior Division)Ferozepur vide judgment and decree dated 4.8.2015 and findings thereof affirmed by learned District Judge, Ferozepur vide judgment and decree dated 21.11.2016.

Plaintiff/appellant while working as Head Constable was posted as Naib Court in the Court of SDM Ferozepur. Latter, made a report against plaintiff on 2.12.2018 alleging that plaintiff had not worked satisfactorily and failed to complete proceedings in files under Sections 107,150,151 Cr.PC and consignment of the same in the record room. Following the said report by SDM,Ferozepur SSP Ferozepur initiated a departmental enquiry against the plaintiff on 11.12.2008. After conclusion of enquiry and affording of personal hearing, penalty of stoppage of two annual increments with cumulative effect was imposed upon the plaintiff

vide order dated 31.10.2009 by SSP Ferozepur. Plaintiff unsuccessfully availed the remedy of appeal and revision. It is thereafter that he filed the suit for declaration to the effect that the punishment/appellate/revisional orders were illegal and against the rules. However, his suit, as noticed above was dismissed by trial Court and findings affirmed in appeal. Hence the present second appeal.

Heard learned counsel for the appellant and perused the impugned judgments and decrees.

In brief the case of the plaintiff/appellant was that he never failed to perform his duty; he was not required to consign the record to record room; and that the enquiry was not conducted in accordance with law.

Defendants on the other hand, in their written statement averred that plaintiff failed to consign 79 files to the record room, performed duties negligently which was reported by SDM Ferozepur to SSP Ferozepur following which departmental enquiry was conducted in accordance with law and that the punishment/appellate/revisional orders were passed rightly.

Both Courts on the basis of oral as well as documentary evidence found that though plaintiff took the stand that it was not his duty to consign record/Qalendras to the record room, however, after issuance of letter dated 2.12.2008 to him, plaintiff, on 8.12.2008 had consigned Qalendras to the Record Room which fact go to the show that it was duty of the plaintiff to consign such files to the Record Room.

Regarding non-providing of opportunity of hearing to the plaintiff/non supply of charge sheet, list of witnesses, copies of statements, it was found that charge sheet Ex.D1 bore signatures of the plaintiff below

the endorsement to the effect that he had received the copy of the charge sheet/list of witnesses Ex.DX. Further statements of enquiry witnesses Ex.D3 to Ex.D6 also bear signatures of the plaintiff which proved that he was afforded opportunity to cross examine those witnesses but plaintiff did not prefer to cross examine them. Further plaintiff during his cross examination admitted his signatures on the aforesaid documents.

After hearing counsel for the plaintiff/appellant and perusing the paperbook, this Court finds that the procedure provided for imposition of punishment has been duly followed and the findings recorded are neither perverse nor irrational and the punishment imposed is neither disproportionate nor arbitrary. Therefore, in view of the parameters enumerated in disciplinary matters by Hon'ble the Supreme Court in **S.R. Tewari Vs. Union of India and Anr. (2013)6 Supreme Court Cases 602**, no case for interference is made out.

In view of the above, no question of law much less substantial question of law arises in this appeal.

Dismissed.

18.07.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No