

RSA-2256-2019 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2256-2019 (O&M)

Date of Decision: 02nd May, 2019

Uttari Haryana Bijli Vitran Nigam Limited & others

...Appellants

Versus

Mukesh Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Kanwar Sanjiv Kumar, Advocate,
for the appellants.

AUGUSTINE GEORGE MASI, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 29.11.2017 passed by the Civil Judge (Junior Division), Kurukshetra, whereby, suit for declaration preferred by the respondent – plaintiff for setting aside the punishment orders passed by the Chief Engineer dated 30.06.2006 and by the General Manager (Administration), dated 31.05.2016 are illegal, null and void with a mandatory injunction for promoting him on higher post by granting all consequential benefits stands decreed, appeal against which preferred by the appellant – defendants stands dismissed by the District Judge, Kurukshetra, dated 15.03.2019.

2. It is the contention of the learned counsel for the appellants that the Courts below have proceeded on a wrong assumption that when

the charge-sheet was issued under Regulation 7 of the Haryana State Electricity Board Employees (Punishment and Appeal) Regulations, 1990, a regular enquiry has to be mandatorily held and no minor punishment can be imposed without holding a regular enquiry. He contends that the said observation of the Courts below is contrary to the judgment passed by the Hon'ble Supreme Court in D.H.B.V.N.L., Vidyut Nagar, Hisar & others Vs. Yashvir Singh Gulia 2013 (11) SCC 173. He, thus, contends that the judgments and decree as passed by the Courts below cannot sustain and deserve to be set aside.

3. I have considered the submissions made by the learned counsel for the appellants and with his assistance have gone through the impugned judgments.

4. There can be no doubt that in the light of the judgment passed by the Hon'ble Supreme Court in *D.H.B.V.N.L., Vidyut Nagar, Hisar's* case (supra), the judgments as passed by the Courts below on this plea that the regular departmental enquiry has not been held against the respondent – plaintiff while imposing minor penalty upon him cannot sustain, however, on merits, it has been established and that too on the basis of the evidence led by the respondent that there was no fault on his part as is apparent from the statements of Pawan Kumar, Deputy Superintendent, UHBVNL (DW-1) as well as Balwinder Singh, Sub Divisional Officer (DW-2). According to the statements of these two witnesses of the defendants, no fault can be attributed to the respondent –

plaintiff as he was only having an additional charge of Head Cashier for few days due to the regular hand being on leave and further, due to winter season and foggy day, consumers came late for payment of bills leading to not handing over the cash to the Head Cashier after 2 PM on 04.01.2016. Under those circumstances, the amount could not have been deposited with the banks. For the other two dates i.e. 02.01.2016 and 03.01.2016, on which, respondent – plaintiff had officiated apart from 04.01.2016, he had deposited the cash received in time in the Bank. However, on 04.01.2016, the date on which cash could not be deposited with the bank, he had kept the cash collection in the chest in the presence of the Sub Divisional Officer, one set of keys of which was with the Sub Divisional Officer and other was kept with the respondent – plaintiff, which factum is also admitted. Unfortunately, on the night of 4/5.01.2016, the theft had taken place where the chest was removed from the office and the cash looted, for which Rameshwar Chowkidar, who was on night duty on that date, was found guilty and the stolen cash had been duly recovered from him.

5. In the light of the above facts and circumstances and the evidence, which has come on record, even on merits, it cannot be said that there was any fault or negligence on the part of the respondent – plaintiff, which would justify the imposition of the minor penalty upon him.

6. In the impugned judgments, concurrent findings have been

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returned by both the Courts below being in accordance with the pleadings and the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

7. In view of the above, finding no merit in the present appeal, the same stands dismissed.

CM-6037-C-2019

In the light of the dismissal of the main appeal, no order is required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

02nd May, 2019
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No