IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No. 1629 of 2019 (O&M)
Date of decision : 23.09.2019

Bureau of Indian Standards through Director General BIS, New Delhi and another

.... APPELLANTS

Versus

Amarjit Singh

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA
ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Rajeev Kumar Gupta, Advocate,
for the appellants.

* * *

RAJIV SHARMA, ACTING CHIEF JUSTICE

1. This Letters Patent Appeal is instituted against the judgment dated 17.05.2018, rendered by the learned Single Judge in CWP No. 814 of 2015.

2. The brief facts necessary for adjudication of this appeal are that the respondent was deputed to M/s HCL for inspection and testing from a particular lot. A charge sheet was issued to him. Enquiry was conducted. He was found partially guilty. The disciplinary authority disagreed with the enquiry report. The respondent was exonerated. The report was sent to the Central Vigilance Commission. The matter was remitted to the disciplinary authority. The disciplinary authority maintained its earlier opinion.

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However, the next incumbent imposed penalty of stoppage of one increment with cumulative effect without issuance of any notice to the respondent. The respondent filed an appeal. It was partially accepted. The penalty was reduced to withholding of one increment for a period of one year without cumulative effect.

3. The principal contention of the respondent before the learned Single Judge was that he was not awarded an opportunity of hearing by the disciplinary authority, while imposing penalty of stoppage of one increment with cumulative effect.

4. Learned counsel appearing on behalf of the appellants has vehemently argued that the respondent has been heard in the appeal. Thus, there is no violation of principles of natural justice.

5. The settled law is that the principles of natural justice have to be complied with at the threshold. The appellate court may not cure the irregularity or illegality, if the principles of natural justice have not been followed at the initial stage. Moreover, the respondent had already been exonerated by the disciplinary authority earlier.

6. Their Lordships of the Hon'ble Supreme Court in ***Institute of Chartered Accountants of India versus L.K. Ratna and others, (1986) 4 SCC 537*** have held that if the order is bad at the initial stage it cannot be cured at the appellate stage. Their Lordships have held as under:

> *"But perhaps another way of looking at the matter lies in examining the consequences of the initial order as soon as it is passed. There are cases where an order may cause serious injury as soon as it is made, an injury not capable of being*

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entirely erased when the error is corrected on subsequent appeal. For instance, as in the present case, where a member of a highly respected and publicly trusted profession is found guilty of misconduct and suffers penalty, the damage to his professional reputation can be immediate and far-reaching. "Not all the King's horses and all the King's men" can ever salvage the situation completely, notwithstanding the widest scope provided to an appeal. To many a man, his professional reputation is his most valuable possession. It affects his standing, and dignity among his fellow members in the profession, and guarantees the esteem of his clientele. It is often the carefully garnered fruit of a long period of scrupulous, conscientious and diligent industry. It is the portrait of his professional honour. In a world said to be notorious for its blase attitude towards the noble values of an earlier generation, a man's professional reputation is still his most sensitive pride. In such a case, after the blow suffered by the initial decision' it is difficult to contemplate complete restitution through an appellate decision. Such a case is unlike an action for money or recovery of property, where the execution of the trial decree may be stayed pending appeal, or a successful appeal may result in refund of the money or restitution of the property, with appropriate compensation by way of interest or mesne profits for the period of deprivation. And, therefore, it seems to us, there is manifest need to ensure that there is no breach

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> *of fundamental procedure in the original proceeding, and to avoid treating an appeal as an overall substitute for the original proceeding."*

7. Accordingly, there is no merit in the appeal and the same is dismissed.

(RAJIV SHARMA)
ACTING CHIEF JUSTICE

September 23, 2019 **(HARINDER SINGH SIDHU)**
ndj **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

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