

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

228

RSA-257-2015

Date of decision: 18.07.2019

DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS

...APPELLANTS

VS.

RAMBIR

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Pardeep Singh Poonia, Advocate,
for the appellants.

None for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 25.02.2014 passed by the Civil Judge (Junior Division), Gurgaon, whereby suit for declaration with consequential relief of mandatory injunction preferred by the respondent-plaintiff for holding that the order dated 30.06.2009 (Ex. D5) of punishment of stoppage of one annual increment without cumulative effect is bad in law, departmental appeal preferred by the respondent-plaintiff was dismissed by the appellate authority on 12.04.2010 (Ex.PD8). The said suit was decreed by the trial Court leading to the filing of an appeal by the appellants-defendants, which has been dismissed by the District Judge, Gurgaon vide order dated 11.11.2014.

It is the contention of the learned counsel for the appellants that as per Explanation 8 of Regulation 7 of HSEB Employees (Punishment and

Appeal) Regulations, 1990, the competent authority is entitled to impose minor penalty without completing the procedure for the major penalty despite issuance of a charge-sheet for a major penalty. He contends that the Full Bench judgment of this Court in Dr. K.G.Tiwari vs. State of Haryana, 2002 (4) SLR 329, on which reliance has been placed by the Courts below, is erroneous as the language of the Statutory Rules under consideration and that of the Regulation of the appellate are different. He, thus, contends that on an authority coming to the conclusion that the proceedings for regular enquiry may be dispensed with as minor punishment would serve the purpose, such order of minor penalty could have been imposed.

I have considered the submissions made by the learned counsel for the appellants and with his assistance, have gone through the records of the case including the judgments.

A perusal of the order of imposing the minor penalty would not indicate that there has been a cautious decision by the competent authority to dispense with the regular departmental enquiry against the respondent-plaintiff. In the absence of application of mind, the punishing authority could not have proceeded to pass an order of minor penalty straightway.

Counsel for the appellants has, very fairly, brought to the notice of the Court the judgment passed by this Court in RSA No. 265 of 2015 titled as Dakshin Haryana Bijli Vitran Nigam Ltd. vs. Sat Narain, dated 24.01.2018, where this Court has dealt with this aspect and has accordingly, proceeded to come to a conclusion that the order was not sustainable. He further states that the appellants be also given liberty to pass a fresh order after giving an opportunity of hearing to the respondent-plaintiff.

This Court would not intend to go to this aspect and would

upheld the order passed by the Courts below. However, liberty is granted to the appellants to proceed and pass the fresh order in case the respondent-plaintiff is still in service and has not retired, in accordance with law, by giving an opportunity of hearing to the respondent-plaintiff.

The appeal stands disposed of with above observations.

July 18, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No