

**C.M. NO.17464 C OF 2016 &
R.S.A. NO.6692 OF 2016**

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

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**C.M. NO.17464 C OF 2016 &
R.S.A. NO.6692 OF 2016
DATE OF DECISION: MAY 09, 2019**

Gurpreet Singh

.....Appellant

VERSUS

Pepsu Road Transport Corporation and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Vivek Sharma, Advocate,
for the appellant.

AUGUSTINE GEORGE MASI, J. (ORAL)

C.M. No.17464-C of 2016

Prayer in this application is for condoning the delay of 39 days
in refiling the appeal.

For the reasons mentioned in the application, which are duly
supported by an affidavit of the counsel, the application is allowed and
delay of 39 days in refiling the appeal stands condoned.

R.S.A. No.6692 of 2016

Challenge in this appeal is to the judgment and decree passed
by the Civil Judge (Junior Division), Patiala, dated 10.11.2014, whereby the
suit preferred by the appellant-plaintiff was dismissed wherein declaration
was sought to the effect that the order dated 09.04.2008 passed by the
General Manager, Pepsu Road Transport Corporation, Ludhiana, removing
him from service from the post of Conductor and the order dated 15.06.2009

passed by the Managing Director, dismissing the appeal of the appellant, deserve to be set-aside being illegal, void, ultra-vires and malafide apart from being discriminatory and unconstitutional and the appellant be reinstated in service with all consequential benefits. Even appeal filed against the said judgment and decree by the appellant-plaintiff was dismissed by the learned Additional District Judge, Patiala, vide judgment and decree dated 05.01.2016.

It is the contention of learned counsel for the appellant that the appellant was appointed on 17.02.2005 on compassionate ground as a Conductor with the respondent Department. He was served with a charge sheet dated 30.10.2007 on some false and baseless allegations. However, prior thereto, he was placed under suspension vide order dated 15.10.2007. A regular departmental enquiry was initiated against him wherein the appellant was not given proper opportunity to lead his evidence or to cross-examine the witnesses, who have been produced by the Department against him. It was further asserted that principles of natural justice have not been complied with. He further contends that the enquiry report is not based on proper appreciation of evidence and, therefore, the charges as alleged against the appellant-plaintiff cannot sustain. An additional ground has been raised by learned counsel for the appellant that typed charges were seven in number and eighth charge was added by hand, which is a manipulation on the part of the respondents. He, therefore, contends that mentioning of eighth charge against the appellant-plaintiff is manipulation and he was not even given an opportunity to lead his evidence qua charge No.8 added by hand. He further states that the impugned orders, therefore, cannot sustain as during enquiry proceedings, the statutory rules have not been complied

with. On the basis of these submissions, he asserts that the judgments and decree as passed by the Courts below cannot sustain and deserve to be set-aside and the suit of the appellant-plaintiff decreed.

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

The first contention of learned counsel for the appellant, which needs to be dealt with is with regard to addition of 8th charge in the charge sheet by hand. The said contention of learned counsel for the appellant cannot be accepted as there is nothing mentioned in the plaint with regard to there being an addition by hand in the charge sheet, which is subsequent to the enquiry proceedings or during enquiry proceedings. Nothing has come in the statement of any of the witnesses nor has there been any cross-examination by the appellant-plaintiff of the witnesses in this regard and, therefore, the said contention cannot be accepted.

The second contention of learned counsel for the appellant that the appellant-plaintiff was not given an opportunity to cross-examine the witnesses and to lead his evidence during enquiry proceedings also cannot be accepted in the light of specific findings given by the Courts below where the statements of witnesses have been noted and recorded, appellant has signed all the said statements. Some of the witnesses have been cross-examined by the appellant-plaintiff whereas in the case of others despite opportunities having been granted for the said purpose, he opted not to cross-examine them. All these statements bear signatures of the appellant-plaintiff, which he has himself admitted in the Court in his evidence. In the light of the above, the contention of learned counsel for the appellant that

no proper opportunity was given to the appellant-plaintiff to cross-examine the witnesses or to lead his evidence cannot be accepted

Further contention of learned counsel for the appellant that no independent witness has been examined except for a departmental witness, suffice it to say that the witness who had appeared before the Enquiry Officer has based his evidence on the basis of record and his personal knowledge as he was the person who had conducted the raid, when the appellant was found to have embezzled an amount of ₹175/- on one date and thereafter on different occasions and different dates amounts embezzled were ₹22/-, ₹8/-, ₹4/- and ₹8/- respectively, totalling ₹217/-. It is also an admitted position that the appellant-plaintiff had earlier been warned and asked to be careful in future. It cannot, therefore, be said that it was a stray incident on the part of the appellant-plaintiff with regard to he having not issued the tickets but taking the money from the passengers and, thus, embezzling the amount of tickets.

In view of the above, it cannot be said that the departmental enquiry, which was held against the appellant-plaintiff, was not in consonance with the statutory rules or that the findings which have been returned by the Enquiry Officer are based on no evidence. The judgments and decree, therefore, as passed by the Courts below cannot be faulted with as the same are based upon the settled principles of law. The Civil Court has a limited jurisdiction to interfere in the case where the statutory rules have been duly followed and there is no violation thereof. Further, the Civil Court cannot sit as appellate authority on an enquiry which has been held against an employee.

There are concurrent findings returned by the Courts below and

there is no question of law involved in the present appeal, which would call for any interference by this Court.

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

May 09, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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