

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

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**REGULAR SECOND APPEAL NO.3356 OF 2017
DATE OF DECISION: JANUARY 23, 2019**

Kulbir Singh Walia

.....Appellant

VERSUS

State of Punjab and others

.....Respondents

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

Present: Mr. Sandeep Arora, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment passed by the Civil Judge (Senior Division), Jalandhar dated 04.08.2016, whereby suit for declaration to the effect that the order dated 08.12.2005 vide which 5% deduction in pension of the plaintiff was ordered on the basis of an exparte enquiry on charge sheet dated 23.03.1999 being illegal, null and void and against the rules and regulations as well as the principles of natural justice with mandatory injunction for release of entire amount of the deducted pension and payment for the suspension period etc. with interest was dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the District Judge, Jalandhar, vide judgment dated

22.02.2017.

It is the contention of learned counsel for the appellant that the exparte enquiry, which has been initiated against the appellant, is not sustainable in the light of the fact that initially one Sh.Harjit Singh, Deputy Director, Local Government, Jalandhar, was appointed as the Enquiry Officer. Thereafter he relinquished the charge of the said post and accordingly the Enquiry Officer was changed. No intimation was sent to the appellant with regard to change of the Enquiry Officer because of which the appellant could not participate in the enquiry. His further contention is that even at the stage of submission of the enquiry report and thereafter at the time of awarding punishment, the appellant was not given ample opportunity to put forth his view point/objections. This has resulted in denying the appellant the right of being heard and he has been condemned unheard by the respondents by holding an exparte enquiry and as per him, thereafter imposition of punishment of cut of 5% on the pension is not sustainable and, therefore, the judgments as passed by the Courts below, being contrary to the statutory rules and principles of natural justice are liable to be set-aside and the decree, as prayed for, by the appellant be granted.

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

The contentions as raised by learned counsel for the appellant cannot be accepted as it is an admitted position that the charge sheet was duly served upon the appellant. Alongwith the charge sheet, notice was also issued to the appellant to join the enquiry proceedings. He failed to do so

and had responded to the notice of the Regional Deputy Director, Jalandhar, who had asked him to join the enquiry proceedings on 08.08.2004 by stating that he had filed Civil Writ Petition No.609 of 2004 in the High Court for cancellation of the charge sheet being time barred. He had not appeared before the Enquiry Officer nor has he produced on record the copy of the writ petition filed by him. Under these circumstances, the Enquiry Officer has rightly proceeded with the enquiry exparte against him.

The contention of counsel for the appellant that on the change of the Enquiry Officer, the appellant was not intimated, also does not cut much ice in the light of the fact that he has already been proceeded against exparte in the enquiry proceedings and had the appellant been interested in participating in the enquiry proceedings, he would have approached the officials for finding out the fate of the enquiry.

As regards the contention of learned counsel for the appellant that he has not been supplied the enquiry report, the said aspect also cannot be accepted as it has come on record in the pleadings as well as the evidence, which has been produced by the respondents that the appellant was duly supplied with the enquiry report and he had responded thereto to the punishing authority. The proposed punishment has also been forwarded to him, to which also he had filed reply. It is thereafter that the order of punishment has been imposed upon the appellant.

In the light of the above, it cannot be said that the appellant has not been given an opportunity of being heard or that the principles of natural justice have been violated. The judgments as passed by the Courts below, being based upon the settled principles of law and in accordance with the statutory rules governing the services of the appellant, do not call

for any interference by this Court.

The appeal, being devoid of merit, stands dismissed.

January 23, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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