

C.M. No.2347-C of 2018

R.S.A. NO.5560 OF 2017 (O&M)

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

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C.M. No.2347-C of 2018

R.S.A. NO.5560 OF 2017 (O&M)

DATE OF DECISION: MARCH 19, 2019

Bal Krishan

.....Appellant

VERSUS

United India Insurance Co. Ltd., Delhi and another

....Respondents

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

Present: Mr. Rajat Garg, Advocate and
Mr. Aditya Jain, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

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Application is allowed as prayed for subject to all just exceptions.

Photocopy of order dated 18.11.2008 (Annexure A-1) is taken on record. Exemption is also granted from filing its certified/true typed copy.

R.S.A. No.5560 of 2017

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Faridabad, dated 09.05.2014, whereby the suit for declaration to the effect that the order of dismissal of the

appellant-plaintiff dated 18.11.2008 is null and void in the light of the fact that no enquiry has been held against the appellant-plaintiff while passing the said order as the same is based upon his conviction under Sections 302, 307, 148, 149 IPC read with Section 25 of the Arms Act vide judgment dated 24/27.09.2008 passed by the Additional Sessions Judge, Faridabad, appeal against which is pending before the Division Bench of this Court and the appellant has been granted bail by this Court on 26.03.2009. Further a mandatory injunction has been prayed for to reinstate the appellant-plaintiff in service by setting-aside the order of dismissal and for grant of all consequential benefits has been dismissed, appeal against which preferred by the appellant-plaintiff has been dismissed by the Additional District Judge, Faridabad, vide judgment dated 15.07.2017.

It is the contention of learned counsel for the appellant that the appellant was working as a Record Clerk and was working in Divisional Office at Faridabad till 15.01.1987. He was working with the respondent-defendants to their satisfaction and there was nothing with regard to his work which would have given any cause to the respondents to pass an order of dismissal against him. The order of dismissal has been passed merely on the basis of judgment of conviction passed by the Additional Sessions Judge, Faridabad, against him under Sections 302, 307, 148, 149 IPC read with Section 25 of the Arms Act. He contends that the principles of natural justice have been violated as neither any enquiry has been held nor has he been given an opportunity to respond with regard to the factum of his conviction. The Bank has also not taken into consideration the fact that the appellant has challenged the order of his conviction and sentence and the appeal is pending before this Court where he has been released on bail. He,

thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set-aside.

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

Perusal of the judgments passed by the Courts below would clearly indicate that the reason for dismissal of the appellant-plaintiff is his conviction for a heinous crime i.e. offences under Sections 302, 307, 148, 149 IPC read with Section 25 of the Arms Act vide judgment dated 24/27.09.2008 passed by the Additional Sessions Judge, Faridabad. Keeping in view the conduct of the appellant in the commission of the crime, which has resulted in his conviction, disciplinary authority has imposed the punishment of dismissal upon him.

Further keeping in view the seriousness of the offences for which he has been convicted, the order of dismissal of the appellant-plaintiff has been up-held by placing reliance upon various judgments passed by this Court as well as Hon'ble Supreme Court wherein it has been clearly held that for an offence, which is grave in nature, if conviction ensued and the said conduct is taken into consideration by the disciplinary authority, provisions of Section 311 of the Constitution of India would not be attracted, especially keeping in view the proviso to Clause (2) of Article 311 of the Constitution of India.

The judgments as passed by the courts below, being based upon proper appreciation of the pleadings, evidence on record as also the legal position, the same cannot be faulted with.

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

March 19, 2019
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(AUGUSTINE GEORGE MASIH)
JUDGE

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