

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

RSA No.2196 of 2022 (O&M)
Date of decision: 7th December, 2022

Raj Singh Yadav

... Appellant

Versus

Chaudhary Charan Singh Hy. Agri. University, Hisar & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mohit Garg, Advocate for the appellant.

MANJARI NEHRU KAUL, J.

Suit for declaration and injunction (prohibitory and mandatory) filed by the plaintiff/appellant Raj Singh Yadav was dismissed with costs by the learned trial Court vide its judgment and decree dated 11.08.2016, which findings were affirmed by the learned lower appellate Court and the appeal dismissed vide its judgment and decree dated 05.05.2022. The plaintiff is now before this Court impugning the concurrent findings recorded by both the Courts below.

The parties to the *lis* hereinafter shall be referred to by their original position in the suit.

The pleaded case of the plaintiff may be noticed as thus:-

The plaintiff joined as a Clerk in the office of defendants No.1 and 2/University in the year 1983. On 10.10.1991, the plaintiff was transferred to the office of Land Scape as a Storekeeper. While taking over charge on the new assignment from his predecessor, S.D.

Bhatia, the plaintiff found some shortage in the store articles while some articles had been issued by S.D. Bhatia to one Dayanand, Beldar; Attam Parkash, Tractor Driver and some field staff of the defendant University. S.D. Bhatia admitted to the plaintiff that some articles were pending towards him. Plaintiff and S.D. Bhatia mutually settled the matter and signed on the papers on 22.02.1993 and 24.02.1993. On 30.08.1993, the plaintiff was transferred to Nehru Library and he handed over the charge of Storekeeper to his successor K.L. Madan. The plaintiff issued consumable items to the employees through indent against proper acknowledgement of permanent store articles/non-consumable items from the concerned official. Even though, the authorities were duty bound to inform the plaintiff about any shortage regarding store articles to the Storekeeper within three months from his transfer, however, after keeping quiet for more than ten years from the date of issuance of the storage list, the plaintiff was issued show cause notice by them. The plaintiff duly replied to the show-cause notice as also to the show-cause notice directing him to deposit the amount of money qua the shortage of articles found in the stores. Thereafter, the plaintiff filed an appeal before the Vice Chancellor of the defendant University, which was rejected. The plaintiff urged that the principles of natural justice had not been followed by the defendants while passing impugned orders dated 16.03.2015 and 07.11.2014 whereby recovery of ₹ 2,81,694.17 had been ordered against the plaintiff by way

of deduction of ₹ 7,825/- per month from his salary. Hence, a decree of declaration and injunction (mandatory and permanent) was sought to be passed against the defendants.

On being put to notice, the defendants controverted the case of the plaintiff in their written statement. It was averred that it was the plaintiff himself who was liable and responsible to obtain the charge from S.D. Bhatia and in case of his failure to do so, he could not fasten his liability upon the answering defendants. It was alleged that neither the distribution register was produced by the plaintiff nor the indent was in the required format. Still further, it was averred that though the plaintiff was transferred to Nehru Library, however, no charge of store was handed over to his successor K.L. Madan as had been claimed by him. In fact, charge had been given to his successor by the Committee after preparing a list of short-listed items. Even otherwise, it was averred that lists of handing over and taking over of the articles had never been produced by the plaintiff. After physical verification of the page of the stock register, the Committee put their remarks regarding the shortage of items. It was still further averred that the photocopies of the indents produced by the plaintiff in the Court were never handed over by him to the authorities. Still further, the plaintiff had shown permanent articles to be Nil, which was not possible as they always remained with the defendant University. A prayer was, therefore, made for dismissal of the suit by the defendants.

Both the Courts below dismissed the suit of the plaintiff by recording concurrent findings to the effect that the principles of natural justice had been followed by the defendant authorities, however it was the plaintiff himself, who neither appeared nor produced the documents before the Enquiry Officer.

Learned counsel for the appellant submits that the findings recorded by the courts below are based on mis-appreciation of evidence as both the Courts below failed to notice that the principles of natural justice had not been followed by the defendants while passing the impugned orders. He vehemently argues that the very veracity of the shortage list is under challenge as the same was issued to the plaintiff after eight years from the date he relinquished charge, and which does not even bear the signatures of the members of the Committee, but of the Storekeeper Onkar Chand and the Head of the Land Scape Unit (LSU). Learned counsel further argues that shortage of the articles could not have been shown against the plaintiff, long after he had relinquished the charge, more so, when during the intervening period, charge of the store had been held by a number of other employees.

I have heard learned counsel for the appellant and perused the relevant material on record.

At the outset, it needs to be noticed that the Civil Court has very restricted jurisdiction to interfere in matters of departmental enquiry. The primary question which arises for consideration of this

Court is whether principles of natural justice were followed by the defendant authorities while passing the impugned orders or not. A perusal of the material on record shows that an opportunity of hearing along with an opportunity to inspect the record was given to the plaintiff by defendant No.2 (Registrar of the University). The order of recovery (Ex.P16) was passed only after considering the reply of the plaintiff to the show-cause notice and after affording due opportunity of personal hearing to the plaintiff.

Still further, it is also a matter of record that the plaintiff preferred an appeal before the Vice Chancellor of the defendant University. However, admittedly he himself did not appear before the Enquiry Officer, with the relevant record to prove his case. Once the plaintiff himself failed to avail the opportunity afforded to him by the defendant University during departmental enquiry, he could not knock on the doors of the Civil Court seeking the relief as prayed for, in the suit in question. It is abundantly clear that principles of natural justice were followed by the defendant University while passing the order of recovery and the submissions made by the learned counsel are bereft of any merit.

Furthermore, though learned counsel has argued that list for shortage of articles and the show-cause notice qua the same were issued much after the plaintiff had relinquished the charge of Storekeeper, however, the record clearly reveals that the plaintiff did not hand over

complete charge to his successor for several years despite repeated letters issued to him by the authorities concerned. It is thus, clear that it was the plaintiff who himself was responsible and had been delaying handing over the charge to his successor.

Lastly, it would be most pertinent to refer to the admission made by the plaintiff himself to the effect that when he received charge from his predecessor S.D. Bhatia, there was some shortage in the articles but due to a mutual settlement effected between him and S.D. Bhatia, he did not raise any objection to it. This admission, without a doubt, is fatal to the case of the plaintiff as he was well aware that if shortage of some articles had come to his notice, he could not have given any No Objection Certificate. Hence, it is evident that No Objection Certificate given by the plaintiff was in flagrant disregard of the rules, as neither the plaintiff raised any objection at that time nor did he inform the authorities concerned about the shortage of articles. Interestingly, S.D. Bhatia was not even made a party to the suit filed by the plaintiff.

Once the plaintiff, as per his own admission, did not dispute qua the shortage of articles when he took charge from his predecessor as Storekeeper and still further, he chose not to inform the defendant authorities qua the alleged shortage, he could not be allowed later to repel the consequences attached to his actions.

On being pointedly asked, learned counsel has failed to bring to the notice of this Court any material on record from which it could be inferred that the conclusions drawn by both the courts below were either contrary to the record or suffered from any material illegality. In the circumstances, the appeal being devoid of any merit stands dismissed in limine.

(MANJARI NEHRU KAUL)
JUDGE

December 7, 2022

 rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No