

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1046 of 2019 (O&M)

Date of Decision: 29.08.2023

Dr. Manmohan Singh Dhillon

... Appellant(s)

Versus

The State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Puneet Kumar Bansal, Advocate
for the appellant(s).

Mr. Ajit Singh Natt, Assistant Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff.

3. The plaintiff's suit for the grant of decree of declaration that the penalty of dismissal from service passed by the Disciplinary Authority on 23.04.2013, which, in appeal, was affirmed by the Appellate Authority on 11.09.2013 is illegal, null and void.

bribe in order to give a wrong medical opinion, a charge sheet was issued. The Inquiry Officer was appointed, however, the plaintiff did not participate, despite repeated notices were sent to him. On one hand, he was not joining the inquiry, while on the other hand, he was requesting for the change of the Inquiry Officer. Ultimately, the Inquiry Officer reported that the charges against the plaintiff were proved including the acceptance of bribe of ₹20,000/-. The Disciplinary Authority dismissed him from service, which, in appeal, was affirmed by the Appellate Authority. His suit was also dismissed by both the Courts below.

5. Heard the learned counsel representing the appellant at length and with his able assistance, perused the paper-book and a copy of the inquiry report submitted by the Inquiry Officer.

6. The learned counsel representing the appellant submits that it is a case of no evidence because no Expert was examined by the concerned department. He further submits that the order punishing the appellant is also a non-speaking order. At the end, he submits that the appellant was given an opportunity of hearing by the Additional Secretary, whereas, the order of punishment was passed by the Principal Secretary.

7. This Court has considered the submissions. It has come on record that the appellant, who was posted as a Medical Officer, gave his medical opinion on the basis of X-ray report dated 27.08.1993. He declared that the injuries suffered by the injured, who was admitted in the hospital, are simple in nature. However, on a complaint, a Medical Board was constituted by the Chief Medical Officer which included the appellant. On the basis of X-ray report dated 08.09.1993, the Board gave an opinion that

the injury No.2 is grievous as there is a fracture of right elbow. On the basis of the aforesaid material, the Inquiry Officer formed an opinion that the previous report submitted by the appellant was after accepting the bribe. Even the complainant Banta Singh and one Jaila Singh were examined by the department in the inquiry. The domestic inquiry into the charges is not governed by the strict and sophisticated rules of evidence under the Indian Evidence Act, 1872. In the domestic inquiry, the Inquiry Officer is to draw a conclusion after evaluating the material, which is relevant for a prudent mind. In these circumstances, it is not possible to conclude that the department did not produce any evidence. As noticed above, the appellant did not join the inquiry proceedings.

8. The second argument of the learned counsel representing the appellant is also without any substance because the Punishing authority is not expected to re-evaluate the evidence with a judicious mind in the Court of law. Here is a case where the Inquiry Officer had reported that the charges were proved. The appellant was granted an opportunity to make a representation. The same has been considered. In these circumstances, even there is no force in the second submission.

9. With regard to the last submission of the learned counsel representing the appellant, it would be noticed that the appellant was supplied a copy of the inquiry report and his response was sought over it. The same has been considered by the Disciplinary Authority. Moreover, the attention of the Court has not been drawn to the service rules which require the Disciplinary Authority to grant an opportunity of hearing after the inquiry report has been submitted to the charge-sheeted employee.

10. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.
11. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)

Judge

August 29, 2023

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No