

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.344 of 1993 (O&M)

Date of Order:22.11.2023

Punjab State and another

.Appellants

Versus

Daljit Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Arora, AAG, Punjab

Ms. Jayanti Singla, Advocate, for
Mr. Prateek Mahajan, Advocate,
for the respondent.

ANIL KSHETARPAL, J

1. In this regular second appeal, the State of Punjab (defendant) assails the correctness of the judgment and decree passed by the First Appellate Court.

2. It may be noted here that this appeal has come up for hearing after a period of 31 years. While admitting the appeal, no interim relief was granted to the appellant. Consequently, the respondent (plaintiff) before the trial court (now deceased) was reinstated in service on 16.09.1993, and on attaining the age of superannuation he retired.

3. The only issue that requires consideration is with respect to the entitlement of the respondent to the wages for the period between 14.08.1987 to 16.09.1993.

4. At the relevant time, the respondent was working as a Conductor in the buses run by the State Government. It was found by the checking staff that out of 33 passengers, 28 had not been issued tickets by

the respondent, though he had collected fare from them. He was suspended on 05.02.1986, and a charge sheet was issued to him. Ultimately, the disciplinary authority nominated an Inquiry Officer to inquire into the charges. As per the inquiry report dated 14.05.1987, the charges against the respondent were reported to have been proved. The final show cause notice was issued to the respondent which led to ultimate order of termination from service on 14.08.1987.

5. The respondent filed the civil suit on 24.02.1988, challenging the order dated 14.08.1987. The trial court on appreciation of evidence dismissed the suit on the ground that no procedural error in the inquiry report has been found.

6. The respondent filed the first appeal. The First Appellate Court set aside the judgment and decree passed by the trial court on the ground that the disciplinary authority while passing the order of dismissal on 14.08.1987, has taken into account the previous record of the respondent which is beyond the final show cause notice. Secondly, the respondent admitted his fault under the compelling circumstances and therefore, the disciplinary authority could not rely upon the same.

7. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

8. The learned counsel representing the State of Punjab submits that the order of punishment passed on 14.08.1987, is based on the inquiry report and not solely on the admission of the respondent. He further submits that the service rules do not bar the consideration of the previous record of the employee while passing the order.

9. On the other hand, the learned counsel representing the

respondent has reiterated the grounds taken by the learned First Appellate Court.

10. This court has considered the submissions of the learned counsel representing the parties.

11. On a court question, the learned counsel representing the respondent failed to draw the attention of the court to any procedural error in the disciplinary inquiry or the proceedings held by the disciplinary authority. Despite the request, the learned counsel representing the respondent also failed to draw the attention of the court to any provision of the service rules which debars the disciplinary authority from taking into account the previous record of the delinquent employee.

12. The scope of interference by the civil court against the order of the disciplinary authority is limited. In the absence of infringement of procedure laid down for holding a departmental inquiry, it is not permissible for the court to interfere. The civil court is not expected to examine the order passed by the disciplinary authority as an appellate court. In this case, it has come on the file that even the previous record of the respondent was not clean. As many as six annual increments with cumulative effect were stopped and he was previously censured on two different occasions.

13. The reasons assigned by the First Appellate Court for setting aside the trial court judgment and decree are erroneous. On the careful reading of the order passed by the disciplinary authority on 14.08.1987, it is evident that the disciplinary authority took into account the report of the inquiry officer, the previous record of the delinquent employee as well as the admission made by the respondent admitting his misconduct.

Undoubtedly, the respondent prayed for mercy, however, that would not

itself be sufficient to absolve the respondent particularly when despite the prayer made by the respondent not to hold inquiry, the disciplinary inquiry was held and charges were proved, and also the respondent admitted his fault.

14. As already noticed, the respondent was reinstated in service and has continued to work till the date he attained the age of superannuation. He was given all retrial benefits and was paid pension till he was alive. In these circumstances, it would not be appropriate to entirely set aside the judgment and decree passed by the First Appellate Court. However, in the interest of justice, the State of Punjab is absolved from liability to pay wages for the period the respondent never worked. Hence, the State of Punjab shall not be liable to pay the wages/salary from 14.08.1987 to 16.09.1993.

15. With these observations, the appeal is partly allowed.

16. All the pending miscellaneous applications, if any, are also disposed of.

November 22, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO