

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1999 of 2019

Date of Decision: 18.12.2023

Vikram Singh

... Appellant(s)

Versus

The State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjay Jain, Advocate
for the appellant(s).

Mr. Jaspal Singh Pannu, Assistant Advocate General,
Haryana and Ms. Vibha Tewari, Assistant Advocate General,
Haryana, 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. In this regular second appeal, the plaintiff assails the correctness of the findings of facts arrived at by the First Appellate Court while reversing the judgment and decree passed by the trial Court.

3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The plaintiff filed a suit for the decree of declaration to the effect that the order passed on

17.03.2011 by the Superintendent of Police stopping his two annual

increments with permanent effect, which was upheld by the Inspector General of Police as well as the Additional Director General of Police is illegal, null and void and not binding on his rights. He also prayed for the consequential relief of mandatory injunction directing the defendants to release the arrears of his pay. The defendants, while contesting the suit, claimed that at the relevant time, the plaintiff was posted as a Driver on PCR No.5 and at 10.20 P.M. on 10.08.2010, the Station House Officer, Police Station Ambala City, received a wireless message to the effect that there was a dispute between the police officials, who were on duty and certain residents. When the Station House Officer reached the place of incident, he found that the police vehicle was in a damaged condition and he was unable to find the presence of any policeman there. It was obvious that the policemen had run away after abandoning their vehicle. Subsequently, the plaintiff was taken to the Civil Hospital for examination and the doctor after examination found that the plaintiff was under the influence of liquor. His blood sample was taken which was sent to the Forensic Science Laboratory which also confirmed the presence of Ethyl alcohol beyond permissible limits. Ultimately, the Inquiry Officer reported that the charges against the plaintiff were proved. The Superintendent of Police vide order dated 17.03.2011 imposed the penalty of stoppage of two annual increments with cumulative effect. The plaintiff filed a suit after having availed the remedy of appeal and revision before the departmental authorities. The civil suit was decreed by the Court on the ground that there was a delay of 21 days in sending the blood sample of the plaintiff to the Forensic Science Laboratory and the policemen also suffered injuries. The State of Haryana filed an

appeal which has been accepted.

4. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

5. The learned counsel representing the appellant contends that no civilian ever made a complaint against the plaintiff and the report of the Forensic Science Laboratory is not reliable particularly when there is a delay of 21 days in forwarding the blood sample to the Forensic Science Laboratory.

6. This Court has considered the submissions of the learned counsel representing the parties. On the request of the Court, the learned counsel representing the appellants has produced a copy of the order passed by the Superintendent of Police on 17.03.2011. It is evident that the inquiry was conducted by the Deputy Superintendent of Police. During the course of inquiry, the deposition of six witnesses of the department was recorded including the then Medical Officer, Civil Hospital, Ambala. On appreciation of the material placed on record, the Inquiry officer reported that the charges against the plaintiff were proved. The scope of interference of the Civil Court against the order of punishment passed in the departmental proceedings is very limited. The First Appellate Court has found that there was no violation of the service rules during the course of inquiry held by the Inquiry Officer or by the disciplinary authority before passing the order of punishment. In this case, during the course of examination of the Medical Officer, he has stated that the appellant was under the influence of liquor. This was also corroborated by the report sent by the Forensic Science Laboratory. There

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with the blood sample. Moreover, during the departmental inquiry, the department examined as many as six witnesses apart from producing the departmental evidence. In view of the aforesaid facts, there lies no nexus between initiation of action against the appellant and the fact that no complaints were ever made by the civilians. The standard of proof to decide the civil case is preponderance of probabilities. In this case, it is evident from the facts that without analysis of the blood sample the Medical Officer has already opined that the appellant was under the influence of liquor.

7. Keeping in view the aforesaid facts, no ground is made out to interfere with the findings of facts arrived at by the First Appellate Court. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

December 18, 2023**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No