

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.945 of 1993 (O&M)

Date of Order: 25.08.2023

Som Raj

.Appellant

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rohiteshwar Singh, Advocate
for the appellant.

Mr. Ajit Singh Natt, AAG, Punjab.

ANIL KSHETARPAL, J

1. The correctness of concurrent findings of fact arrived at by the courts below is assailed by the plaintiff in this regular second appeal.

2. In fact, the plaintiff's suit with respect to grant of decree of declaration that the order dated 31.01.1986, whereby his six increments with cumulative effect were stopped has been set aside. Whereas his suit with respect to order dated 30.09.1987, whereby his two increments with cumulative effect were stopped has been upheld by the trial court as well as the First Appellate Court. It has been found that the appellant was, at the relevant time, working as a conductor in the Punjab Roadways and when the bus was checked by the inspector, it was found that the appellant despite charging the fare from the passengers, did not issue the tickets to them.

3. Both the Courts on appreciation of the evidence have found that the procedure laid down for holding the disciplinary proceedings was followed while issuing the charge sheet, inquiry report, second show cause

notice and final order of penalty.

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

5. The learned counsel representing the appellant contends that the passengers were not examined and the cash was not tallied by the checking staff.

6. As regard the first arguments put forth by the learned counsel representing the appellant, the Hon'ble Supreme Court in **State of Haryana and another vs. Rattan Singh, (1977) 2 SCC 491** has held that it is not necessary to examine the passengers during the disciplinary proceedings.

Paragraphs 4 and 5 of the said judgment are extracted as under:-

“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the [Indian Evidence Act](#) may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the [Indian Evidence Act](#). For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below mis-

directed themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passengers from American jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chaman Lal, Inspector of the flying squad, is some evidence which has relevance to the charge leveled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.

5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the revaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the administrative

tribunal in conclusion, we do not think the courts below were right in over-turning the finding of the domestic tribunal.”

7. With reference to the arguments of the learned counsel representing the appellant that the checking staff failed to tally the cash, it may be noticed that the passengers were found travelling without tickets. The said passengers disclosed to the checking team that they have already paid the fare to the appellant. Moreover, the Civil Court's scope of interference in the order of punishment is limited. Further, the two courts have already examined the matter in detail.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Dismissed.

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

August 25, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO