

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-680-1992 (O&M)

Date of decision: 05.09.2023

The State of Punjab and others

..Appellants

Versus

Gurcharan Singh

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ajit Singh Natt, AAG, Punjab

Mr. Sukhdip Singh Brar, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. This is the defendants' appeal against the findings of fact arrived at by the First Appellate Court while reversing the judgment and decree passed by the trial court. The respondent's services were terminated on 22.08.1984 on the allegation that he has misappropriated diesel oil and has failed to produce log book in order to prove its utilization. Admittedly, no disciplinary inquiry was ever held by the appellant before dismissing the respondent from service. Moreover, respondent in his reply Ex.P4 submitted that he had given log book for the month of January, 1982 to February 1982 to Sh.Madhukar Bhatnagar, Section Officer of Public Health Branch but he refused to give any receipt. The disciplinary authority did not associate Sh. Madhukar Bhatnagar, Section Officer, before dispensing with the services of the respondent. Thus, the First Appellate Court has decreed the suit.

2. Learned counsel representing the appellant-State of Punjab admits that during the pendency of the appeal, no interim order was granted in favour of the appellant and the services of the respondent were

regularized and he has already retired from the service, on attaining the age of superannuation. However, he submits that the suit filed by the plaintiff was barred by limitation period as the suit was filed beyond the period of three years from the date when the services of the respondent were dispensed with. From a perusal of the findings in issue no.3 of the First Appellate Court, it is evident that before filing the suit, the respondent sent a notice under Section 80 of Code of Civil Procedure, 1908, which is mandatory in nature. Thereafter, the suit was filed within a period of 3 years and 2 months from the date when the services of the respondent were dispensed with.

3. Learned counsel representing the respondent, in open Court has read over order Ex.P4 dated 22.08.1984. The said order is stigmatic as the services of the respondent were dispensed with on the allegation that he had failed to explain the shortage of 152.5 litres of diesel. Such order could not have been passed without holding a proper disciplinary inquiry.

4. In view of the aforesaid facts, no ground to interfere is made out.

5. Hence, dismissed.

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

05.09.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE