

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-929 of 1992 (O&M)
Date of Order:06.11.2023**

Sukhdev Singh**.Appellant****Versus****The State of Punjab and others****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. H.K.Brinda, Advocate
for the appellant.**

Mr. Vikas Arora, AAG, Punjab

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged by the plaintiff in this second appeal.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief are required to be noticed.
3. The plaintiff was employed as a Constable. He was dismissed from the service vide order dated 12.06.1987, on the charge of remaining absent from duty continuously. Against the order of dismissal, the appellant filed an appeal which was dismissed by the Deputy Inspector General of Police, Patiala Range, Patiala, by filing the suit. The plaintiff assails the correctness of the order passed by the disciplinary authority, which in appeal was confirmed by the Deputy Inspector General of Police.
4. Before ordering the dismissal of the appeal, a departmental inquiry was initiated against the plaintiff in which the department examined as many as 6 witnesses. As per the report submitted by the Inquiry Officer, the charges against the appellant were reported to have been proved.

Thereafter, a show cause notice was issued to the appellant by the disciplinary authority. The appellant submitted his reply. Thereafter, the disciplinary authority passed the impugned order.

5. Both the courts on appreciation of the evidence have found that the inquiry was held in accordance with the rules and the appellant failed to draw the attention of the court to any substantive error in the procedure followed by the disciplinary authority.

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

7. The learned counsel representing the appellant contends that the second inquiry on the same facts and circumstances was not justified. He submits that once the order passed pursuant to the first inquiry was set aside, the department was not justified in holding a second inquiry.

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

9. The First Appellate Court has considered this aspect in paragraph 7 of the judgment, which is extracted as under:-

“Having considering the respective submissions of both the parties and going through the evidence, law point involved I find that by now it is well settled that if one enquiry proceedings are vitiated and are set aside, it do not debar the second enquiry on the same facts and circumstances to be conducted. Even where the suit for declaration instituted by the delinquent servant is accepted. Fresh enquiry is not barred as held in AIR, 1962 Supreme Court, 1334. No prejudice being caused has been shown by the plaintiff/appellant by the conducting of the de-novo enquiry by the department. The second enquiry conducted is perfectly correct

according to the settled proposition of law.”

10. It is evident from the reading of the paragraph 7 that the first inquiry was set aside in the first round, hence, the fresh inquiry was held.

11. It is not the case that the disciplinary authority has held the second inquiry on its own. The First Appellate Court has relied upon the judgment passed by the Supreme Court in *AIR, 1962 Supreme Court, 1334*. The learned counsel representing the appellant has failed to draw the attention of the court to any substantive error in the conclusion drawn by the First Appellate Court. Moreover, the scope of interference by the High Court in the Regular Second Appeal is regulated by Section 41 of the Punjab Court Act, 1918 and is very limited. This provision came up for interpretation before the Supreme Court in *Randhir Kaur vs. Prithi Pal Singh, 2019(17) SCC 71, Dhanpat vs. Sheo Ram (Deceased) through LRs and others, 2020 (16) SCC 209* and *Avtar Kaur vs. Bimla Devi, 2021(13) SCC 816*.

12. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

13. Dismissed.

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

November 06, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO