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

**RSA-946-1989 (O&M)
Reserved on : 30.01.2023
Date of Decision : 14.02.2023**

Punjab State Electricity Board and AnotherAppellants

VERSUS

Jai GopalRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.L. Sharma, Advocate, Advocate for the appellants.

Mr. M.S. Dalal, Advocate for the respondent.

ALKA SARIN, J.

The present appeal has been preferred by the defendant-appellants aggrieved by the judgment and decree dated 15.09.1988 passed by the lower Appellate Court.

The brief facts relevant to the present *lis* are that the plaintiff-respondent joined service at Fazilka in the Tubewell Sub Division of Punjab State Electricity Board (PSEB) in 1967. In 1970, he was transferred to Bathinda. Thereafter in 1974 he was transferred to Mansa. However, he went on leave without sanction and did not join his duty for 8 years. On 21.07.1984 a civil suit was filed by the plaintiff-respondent which was decided on 06.05.1986 and a decree of declaration was passed that he continues to be in service of the defendants therein. The plaintiff-respondent

was given a posting order on 12.06.1986 but was also served a charge-sheet. The plaintiff-respondent filed a reply to the charge-sheet. Thereafter, an Enquiry Officer was appointed who gave his report against the plaintiff-respondent. On the basis of the report, order terminating the services of the plaintiff-respondent was passed. The plaintiff-respondent filed the present suit for declaration impugning the order bearing No.121/86 dated 08.10.1986. Vide judgment and decree dated 02.11.1987 the suit was dismissed. Feeling aggrieved, an appeal was prepared by the plaintiff-respondent. The lower Appellate Court decreed the suit of the plaintiff-respondent and passed a decree of declaration that the impugned order is illegal and void and that the plaintiff-respondent was entitled to the arrears of pay etc. subject to the imposition of minor penalty as envisaged by Regulation 5(i to iv) of the PSEB Employees (Punishment & Appeal) Regulations, 1971. Aggrieved by the same, the present appeal has been preferred by the defendant-appellants.

Learned counsel for the defendant-appellants would contend that the only ground on which the appeal has been allowed is that the charge-sheet issued to the plaintiff-respondent was issued under Regulation 10 of the Punjab State Electricity Board Employees (Punishment & Appeal) Regulations, 1971 for imposing a minor penalty, however, a major penalty has been inflicted on the plaintiff-respondent of removal from service. Learned counsel for the defendant-appellants would further contend that the said point was neither raised in the suit nor in the grounds of appeal and hence the said submission could not have been considered and accepted by the lower Appellate Court.

Per contra, learned counsel for the plaintiff-respondent has contended that the plaintiff-respondent, after the judgement and decree passed by the lower Appellate Court, continued in service and has since retired. It is further the contention that being a legal point, the same could have been raised at any stage.

Heard.

The charge-sheet (Ex.P4) reveals that the plaintiff-respondent was charge-sheeted under Regulation 10 of the Punjab State Electricity Board Employees (Punishment & Appeal) Regulations, 1971 for imposing a minor penalty. Once the plaintiff-respondent was not charge-sheeted for imposition of a major penalty, he could not have been removed from service. Learned counsel for the defendant-appellants has not been able to convince this Court that such an action could have been resorted to that the plaintiff-respondent could have been removed from service when the charge-sheet was only issued for imposition of a minor penalty.

In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises in the present appeal. The regular second appeal, which is wholly devoid of any merit, is dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

14.02.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO