

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

**RSA-930 of 1991(O&M)
Date of Order:16.10.2023**

Dhoom Singh (since deceased) through LRs

.Appellant

Versus

Haryana State Khadi and Village Industries Board

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Salil Bali, Advocate
for the appellant.**

**Mr. Padamkant Dwivedi, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiff in this second appeal.
2. The plaintiff filed the suit for grant of decree of declaration that the order passed by the Chief Executive of the respondent-Board on 08.06.1984, while dismissing him from service is illegal, null and void.
3. The services of the plaintiff were terminated after issuing the charge-sheet to him for the various acts of misconduct. After receipt of the reply, the Development Officer was appointed as the Inquiry Officer, who submitted the report against the plaintiff. Subsequently, the Chief Executive of the Board dismissed the plaintiff from service. In substance, the allegation against the appellant was that he received crusher loan from the defendant-board in the name of his wife and misused the same. He signed the application form by impersonating his wife.
4. Both the courts on appreciation of the evidence have found that the plaintiff has failed to make out a case for interference by the civil court.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book as well as the requisitioned record.

6. The learned counsel representing the appellant contends that the decision to dismiss the appellant from service has been signed by the Chief Executive of the Board, whereas the appointing authority is the Board of Directors. He submits that such order is passed without jurisdiction. He further submits that though the power of the Board was delegated to the Chief Executive vide resolution dated 09.11.1983, however, the Chief Executive was required to take a decision and submit it to the approval of the Board which was never submitted. He submits that the appeal filed before the Board against the order of dismissal has also been wrongly dismissed. In the end he submitted that the suspension allowance was not paid to the appellant and therefore, the entire proceedings stand vitiated.

7. On the other hand, the learned counsel representing the respondent-Board while drawing the attention of the court to the Board of Director's resolution no.5(6) dated 09.11.1983, submits that the Chief Executive was delegated the powers of the appointment and conducting the disciplinary proceedings. He points out that the final decision was to be taken by the Chief Executive of the Board after consulting the Chairman of the Board. He submits that such delegation of power is permissible under Section 31A of the Punjab Khadi and Village Industries Board Act, 1955 (hereinafter referred to as 'the 1955 Act'), which is extracted as under:-

“The Board may, by resolution, direct that any power exercisable by it under this Act or the regulations made there under, except the power to make regulations, may also be exercised by the Chief Executive or Member

Secretary, as the case may be, of the Board.”

8. He further submits that against the order of dismissal from service, no appeal or revision is maintainable and therefore, the Board refused to entertain the appeal. He further submits that the appellant despite the repeated opportunities did not join the inquiry proceedings and absented himself from duty once he was placed under suspension. It is submitted that the plaintiff never furnished the required affidavit to establish that he was not gainfully employed during all this while.

9. This court has considered the submissions and analyzed the arguments of the learned counsel representing the parties.

10. On a perusal of Section 31A of the 1955 Act which has already been extracted above, it is evident that the Board by resolution can delegate its powers to the Chief Executive or Member Secretary except the power to make regulations. In these circumstances, there is no error in the delegation of the power by the Board vide resolution dated 09.11.1983.

11. The next argument of the learned counsel representing the appellant has no substance because once the delegation of power is complete, the Chief Executive of the Board has the power to take a final decision as authorised in resolution dated 09.11.1983. It is not the case of the plaintiff that such decision was taken without consulting the Chairman. In these circumstances, there was no requirement for the Chief Executive of the Board to place the decision before the Board of Directors.

12. With regard to the next argument of the learned counsel representing the appellant concerning the dismissal of appeal, it may be noted that once the decision has been taken by the Board of Directors through the Chief Executive in exercise of its delegated powers, in absence

of provision in the Act or the Rules, no appeal was maintainable because the Board is the final authority.

13. The last argument of the learned counsel representing the appellant, though it seems attractive at first blush, is found to be without substance upon deeper scrutiny. It has come on record that the appellant was transferred from Faridabad to Jind on 29.07.1983. Thereafter he was placed under suspension on 24.08.1983. His headquarter was fixed at Faridabad. He joined at Faridabad on 06.09.1983. He asked for permission for station leave for 10.09.1983, to visit his village. Thereafter, he sent a leave application for casual leave for 12.09.1983, which was not sanctioned by the competent authority. He never reported back till he was dismissed from service on 08.06.1984. It was clearly stipulated in the terms that he will only be paid the suspension allowance, if he reports at the headquarter. Moreover, he was served with various notices to participate in the inquiry proceedings. On a perusal of the Letter, Ex.P17, it is evident that he was asked to furnish a certificate from the Chief Medical Officer (CMO) to prove that he was not well which he failed to produce to make out a justification for his absence.

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

15. Dismissed, accordingly.

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

October 16, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO