

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1643 of 2019 (O&M)

Date of Decision: 22.09.2023

EHC Pritam Singh

... Appellant(s)

Versus

State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. D.S.Matya, Advocate
for the appellant(s).

Ms. Vibha Tewari, Assistant Advocate General,
Haryana.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 (hereinafter referred to as “the 1918 Act” and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. This appeal was filed in the year 2019. Thereafter, the appeal has been taken up on various dates of hearing and the following orders have been passed:-

“Order dated 29.03.2019

“Learned counsel for the appellant states that he is not well and requests for an adjournment. Adjourned to 11.04.2019.”

Order dated 11.04.2019

“On request of the counsel for the appellant, adjourned to 10.07.2019.”

Order dated 10.07.2019

“A request for an adjournment has been made on behalf of the learned arguing counsel for the appellant. Adjourned to 12.09.2019.”

Order dated 12.09.2019

“Counsel for the appellant is not present.

In the interest of justice, adjourned to 05.12.2019.

It is made clear that no further adjournment shall be granted in this case.”

Order dated 05.12.2019

“Counsel for the applicant – appellant prays for further time to place on record certain documents, which were available on the trial Court records, on which he intends to rely upon.

Adjourned to 28.02.2020.”

Order dated 05.09.2023

“This appeal is pending for preliminary hearing for the last 4 years. On the request of the learned counsel representing the appellant, the hearing of the appeal has already been adjourned on five different dates of hearing.

Today again, the position is not different.

The appeal is listed in the urgent list, however, the learned counsel representing the appellant once again prays

for an adjournment.

Adjourned to 13.09.2023.

To be listed in the urgent list.

No further request for an adjournment, oral or written, shall be entertained.”

Order dated 13.09.2023

“On 05.09.2023, the following order was passed by this Court:-

*“Present: Mr. Navneet Kumar, Advocate, for
Mr. Deepanshu Matya, Advocate for the
appellant.*

Mr. Jaspal Singh Pannu, AAG, Haryana.

“This appeal is pending for preliminary hearing for the last 4 years. On the request of the learned counsel representing the appellant, the hearing of the appeal has already been adjourned on five different dates of hearing.

Today again, the position is not different.

The appeal is listed in the urgent list, however, the learned counsel representing the appellant once again prays for an adjournment.

Adjourned to 13.09.2023.

To be listed in the urgent list.

No further request for an adjournment, oral or written, shall be entertained.”

As per the office note, the learned counsel representing

the appellant has been informed about the date fixed. However, he has not entered appearance. Although, there is no justification, however, in the interest of justice, adjourned to 22.09.2023.

To be listed in the urgent list.

The office is directed to once again inform the learned counsel representing the appellant about the date fixed.”

3. The learned counsel representing the appellant submits that the appellant has instructed him not to argue the appeal.
4. The case is listed in the urgent list and yesterday evening, this Court has studied the paper-book.
5. Keeping in view the conduct of the appellant, there is no occasion to further adjourn the matter.
6. Hence, the case is being decided on merits.
7. The correctness of the concurrent findings of the facts, arrived at by both the Courts below, is assailed by the plaintiff in this second appeal.
8. The plaintiff was dismissed from service on the allegations of consuming liquor and creating nuisance while on duty, though, he was a member of disciplined police force. However, the Director General of Police, Haryana, reduced the punishment to stoppage of five increments. Even as per the medical report, the appellant was in drunken condition. However, he refused to give his blood and urine sample. It has been noticed by both the Courts below that the appellant was suspended, the charge sheet was issued, a regular departmental inquiry was held in which the charges were proved. Ultimately, a show cause notice along with the inquiry report

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passing the order by the Disciplinary Authority. His appeal against the order of punishment was partly accepted by the Director General of Police, Haryana, as already noticed. On reading of the grounds of appeal, it is evident that the appellant, apart from disclosing the facts which have already been noticed, has not drawn the attention of the Court to any substantive error in reading or non-reading of the evidence. The scope of interference in the regular second appeal under Section 41 of the 1918 Act is limited.

9. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 22, 2023**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No