

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 1208 of 1995****Date of Decision: 15.12.2023**

Jaswant Singh

... Appellant(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sudeep Mahajan and Ms. Saachi Mahajan, Advocates
for the petitioner(s).

Mr. Vikas Arora, Assistant Advocate General,
Punjab, for the respondent.

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 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. In this regular second appeal, the plaintiff assails the correctness of the findings of facts arrived at by the First Appellate Court. The trial Court decreed the plaintiff's suit whereas the First Appellate Court has reversed the judgment and decree passed by the trial Court.

3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The appellant was enrolled as a Constable in the Punjab Police on 14.11.1971. At the relevant

time, he was working as a Driver of an official vehicle. The appellant was

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served with the charge sheet containing the following charges:-

- i) On 19.11.1986, he, while accompanying a woman, went to the Cold Store and demanded a room from the employees working there.
- ii) He remained absent from duty for a period of 24 days w.e.f. 25.11.1986 to 19.12.1986.
- iii) Despite repeated requests, he did not supply the log book of the vehicle.
- iv) On 25.12.1986, he visited the Police Post in a drunken state and picked up a quarrel with the Incharge thereof.

4. Darshan Singh, the Reserved Inspector, was appointed as an Inquiry Officer. Ultimately, the charges were proved against him and the Disciplinary Authority dismissed him from the service. The plaintiff filed an appeal before the Deputy Inspector General of Police, which was also dismissed.

5. Thereafter, the plaintiff filed a civil suit which was decreed by the trial court. However, the State of Punjab had filed the first appeal, which was accepted.

6. The learned counsel representing the appellant contends that as per Rule 16.2 of the Punjab Police Rules Volume II, the dismissal of an employee is permissible on account of the gravest act of misconduct only. Additionally, the official must also be found incorrigible, for his dismissal from service, as it is the highest form of punishment.

7. This Court has considered the submissions of the learned counsel representing the appellant. The gravest act of misconduct depends

upon the subjective satisfaction of the Disciplinary Authority. The Civil

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Court is not expected to interfere unless the punishment awarded is manifestly disproportionate with the misconduct. In this case, all the four charges, as noticed above, were proved against the delinquent employee. Thereafter, the Disciplinary Authority came to a conclusion that the appellant does not deserve to continue working in the police service as it requires highest level of responsible employees. Both the Courts below have not found any error or violation of the rules while holding or conducting the disciplinary inquiry.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the findings of facts arrived at by the First Appellate Court. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

December 15, 2023
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No