IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1823 of 1998 (O&M)
Date of Order: 01.08.2023

Chaman Lal Singla(since deceased) through LRs
.Appellant

Versus

State of Punjab and another **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. Nakul Sharma, Advocate for the appellant.**

Ms. Anju Sharma Kaushik, DAG, Punjab.

ANIL KSHETARPAL, J

1. The correctness of the findings of fact arrived at by the First Appellate Court is assailed by the plaintiff through his legal representatives.

2. In order to comprehend the issue which requires adjudication, it is important to note the important and relevant facts, in brief.

3. The plaintiff filed a suit for grant of decree of declaration that the alleged order passed on 23.04.1993, while dismissing him from service is illegal, null and void. This order was passed after serving a charge sheet and on the basis of report of the inquiry officer. In substance, the allegations against the appellant are that he has been making less payment than entitled to the employees while interpolating the invoices. It was found that as compared to the amount drawn for payment for the employees they were paid significantly less due to cutting, over writing and over adding the figures.

4. The learned trial court decreed the suit while observing that the plaintiff was never supplied with the copy of the preliminary inquiry report,

affidavit of the persons which was the basis of the preliminary enquiry and the statement of witnesses recorded during preliminary inquiry.

5. However, the First Appellate Court on re-appreciation of the evidence found that the plaintiff was provided with numerous opportunities to inspect the record. The First Appellate Court discussed every request of the plaintiff for supply of the document and after analyzing the same held that the substantive compliance of principles of natural justice have been made. The relevant discussion by the First Appellate Court read as under:-

> *"The show- cause notice dated 25.3.1991 (Ex. P.98) was served upon Chaman Lal. The detailed allegations, list of witnesses, list of documents, relied upon were also sent alongwith it and it was specifically mentioned in this show-cause notice to the charge sheet that he was permitted to inspect the relevant record in the office of Assistant Registrar in Co-operative Societies, Sirhind. Thereafter Chaman Lal in his dated 6.4.1991 (Ex. P. 34) demanded the copies of the entire record from the Assistant Registrar Cooperative Societies, Sirhind. He asked for the copies of the affidavits, copies of the statements of the complainant officials and also the copies of the bills which were prepared by him. In a subsequent letter dated 11.4.1991 (Ex. 35), he repeated the same. The Assistant Registrar Co-operative Societies Sirhind in his reply dated 12.4.91 informed that some of the documents were not available with him and were available in the Head Office but the bills were available in his office, which could be seen by him in any working day in his presence, although he denied for supplying the copies of the bills. The Registrar Co-operative Societies in his letter dated 23.4.1991 directed the Assistant Registrar, Sirhind record to make available the record to*

Chaman Lal for his inspection, although he repeated that the copies cannot be given to Chaman Lal. But even in the subsequent letter dated 22.4.1991 (Ex. P. 36) Chaman Lal insisted for the supply of the copies to him. Similar repetition was made in his letter dated 29.4.1991 Ex. P. 37) addressed to the Registrar, Co/operative Societies Chandigarh.

16. From the discussion held above, it is clear that Chaman Lal delinquent official was insisting that the copies of the documents be supplied to him but the departmental officer had made it clear to him that copies of the documents be supplied to him but the record was open for his inspection on any working day. There is nothing on the file to prove if Chaman Lal was prepared to inspect the record or if the record was not offered to him for inspection by the department. It means that opportunity for inspection of record consisting of bills in which cuttings, additions, alterations and inter- polations were alleged was given. Obviously therefore, the copies of the bills could not be supplied. The other record according to the Assistant Registrar was available in the office and Chaman Lal, delinquent official, has failed to prove if he went to the Head office to inspect that record.

17. Chaman Lal plaintiff respondent submitted his reply dated 25.4.1991 to the charge sheet, in which again he raised the objection about the documents non-supply of the copies him of but also replied to the the to statement of allegations levelled against him. The Registrar, 16.5.1991 that vide his letter (Ex. P. 38) informed Chaman he can put up his case before quiry Officer and if any record was by him, he could get the through the Presenting Officer. Chaman see ings. same the dated Lal En- required produced It means that Lal was given an *other opportunity the record, during the to enquiry proceedings.*

19. Chaman Lal filed an application dated 4.6.1991 (Ex. P. 40) before the Enquiry Officer and asked for the production of 12 documents mentioned in the list (Ex. P. 41). Reference was made to the statement of Shri K.S. Pannu, who was the Enquiry officer, DW.1 wherein he admitted that the documents at Sr.No.3 to 11 of Ex.p.41 were not summoned in the enquiry proceedings. It means, therefore, that the documents mentioned at Sr.No. 1, 2 and 12 of Ex.P.41 were produced in proceedings. The documents, at Sr.No.1 is cash book related to the relevant period; entry at Sr.No.2 related to the bill books and similarly at Sr.no.12 also related to the bills in dispute. The perusal of Ex.P.41 shows that documents at Sr.No. 3 to 11 were not directly relevant to the enquiry. For example; document at Sr.No.3 related to the inspection note conducted by the Joint Registrar, Cooperative Societies for the period relating to the enquiry. Inspection note was not at all relied upon for proving the charges against the delinquent official. Similarly document at Sr.No.4 related to the Audit Note of Accountant General, Punjab. This has nothing to do with the enquiry proceedings. Sr.No.5 relates to the file of Ajnali S.C.L.0. Sr.no.6 relates to the file of correspondence, Sr.No.7 relates to the file of Gopal, Sr.No.8 relates to the enquiring file of Pal. From the perusal of Ex.P.41 therefore, it becomes clear that the documents which were not summoned on the asking of Chaman Lal were not directly related to the enquiry proceedings and were not relied upon by the Presiding Officer. Therefore, the documents which were necessary for the enquiry were in the enquiry proceedings at the

> *asking of Chaman Lal and the other documents, which were not produced were not the relevant and were withheld by the Enquiry Officer."*

6. The learned counsel representing the appellant contends that the appellant was not supplied copies of the documents which were required for cross-examining the witnesses including the copy of the preliminary inquiry report.

7. On the other hand, the learned counsel representing the State submits that on more than one occasions, the plaintiff was informed to inspect the record. She submits that the substantive compliance has been made.

8. It is evident from the discussion of the First Appellate Court that in the show cause notice dated 25.03.1991, opportunity was given to the plaintiff-appellant to inspect the record. On 06.04.1991, the appellant demanded copies of the entire record from the Assistant Registrar Cooperative Societies. On 11.04.1991, the same request was reiterated. On 12.04.1991, the Assistant Registrar Cooperative Societies informed the appellant that some of the documents were not available with him and were available in the Head Office but the bills were available in his office which could be seen by him in any working day in his presence. Thereafter, the Registrar Cooperative Societies also directed the Assistant Registrar to make available the record to the appellant for inspection. On 22.04.1991, the appellant once again insisted for copies of the documents.

9. While filing reply to the charge sheet, the appellant once again made a grievance about non supply of copies of the documents and the

Registrar after taking notice thereof permitted the appellant to request the Inquiry Officer so that the documents can be produced through the Presiding Officer. The appellant once again filed an application before the Inquiry Officer on 04.06.1991 for the production of as many as 12 documents. The documents listed at Sr.No.1, 2 and 12 were produced during inquiry proceedings. Document listed at Sr.No.1, is the cash book related to the relevant period, whereas document listed at Sr. No.2 is related to the bill books and document listed at Sr.No.12 is also related to the bills in dispute. Documents no.3 to 13 were not directly relevant to the inquiry.

10. In these circumstances, it would not be appropriate to conclude that the appellant was not given opportunity to inspect the record. Moreover, it has come on record that there are major conscious over writing and cuttings in the invoices. The appellant has failed to furnish any justifiable explanation for such interpolations

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

12. Dismissed.

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

August 01, 2023 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO