

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

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RSA No.1269 of 2004(O&M).

Decided on:16.08.2023

Ajit Singh**...Appellant****Versus****Pepsu Roadways Transport Corporation, Patiala****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Ravneet Singh Joshi, Advocate
for the appellant.**

**Mr. Anil Kumar Sharma, Advocate
for the respondent.**

ANIL KSHETARPAL, J.

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged by the plaintiff in second appeal.
2. The appellant was working as a conductor in a bus operated by the Punjab Roadways. On being checked, it was found that the appellant did not issue tickets to the passengers and therefore embezzled Rs.24/-. After a departmental inquiry into four charges, including the misbehaviour with the members of the checking staff, the appellant was dismissed from service. His suit to challenge the correctness of the aforesaid order has been dismissed by both the courts below.
3. The first appellate court has found that the scope of interference by the civil court in the departmental inquiry is limited. Before the first appellate court, the appellant submitted that the passengers have not been examined by the department. However, the court noticed that non-

examination of the passengers is not essential and their non-examination has not caused any prejudice to the appellant. Reliance in this regard can be placed from the judgment passed by the Supreme Court in **State of Haryana and another vs. Rattan Singh, (1977) 2 SCC 491**. Paragraph 4 and 5 of the said judgment are extracted as under:-

“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the [Indian Evidence Act](#) may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the [Indian Evidence Act](#). For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below mis-directed themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passengers from American jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some

evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has relevance to the charge leveled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.

5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the reevaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the administrative tribunal in conclusion, we do not think the courts below were right in over-turning the finding of the domestic tribunal."

4. Keeping in view the aforesaid facts, no ground to interfere is made out.

5. Dismissed.

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

August 16, 2023

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO