

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(227)

RSA-3353-2016 (O&M)

Date of Decision : 20.03.2023

Rameshwar Dayal

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chanderhas Yadav, Advocate for the appellant.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-3683-C-2021 and CM-3781-C-2018

Present application has been filed for placing on record synopsis and question of law and documents as Annexures A-1 to A-16 and Ex. D10 as Annexure A1.

Application is allowed and documents as Annexures A-1 to A-16 and Ex. D10 as Annexure A1 are taken on record.

CM-8866-C-2016

Application is allowed, as prayed for.

RSA-3353-2016

The present regular second appeal has been filed against the judgments of the trial court as well as lower appellate court dated

30.04.2015 and 17.03.2016 respectively by which, the suit filed by the appellant-plaintiff was dismissed.

The facts leading to the filing of the present appeal are that the appellant-plaintiff was working as a Chowkidar in Govt. Polytechnic, Jhajjar. On 21/22.09.2002, a theft took place in the Computer Library of the Institution and FIR was registered. It was found that though the appellant-plaintiff was on duty but he did not perform his duty properly on the said date, which led to the theft and consequent loss of ₹6,51,515/- to the State Exchequer. An enquiry was held and the appellant-plaintiff was found guilty of the allegations in the said enquiry proceedings on the ground that as the appellant-plaintiff failed to perform his duty in accordance with law and the State Government suffered a loss of ₹6,51,515/-, which was directed to be recovered from the appellant-plaintiff.

On attaining the age of superannuation, the appellant-plaintiff retired on 31.10.2013 and the amount of said loss was deducted from the retiral benefits of the appellant-plaintiff. The said deduction was challenged by the appellant-plaintiff by filing a civil suit. Keeping in view the facts and evidence, which came on record, the trial court held that as enquiry proceeding was held in accordance with law, wherein the allegations against the appellant-plaintiff were proved including the loss caused to the State Exchequer to the tune of Rs. 6,51,515/-, the recovery of the said amount from the appellant-plaintiff from his retiral benefits cannot be treated as an arbitrary and illegal. The suit filed by the appellant-plaintiff was dismissed by the trial court vide judgment and decree dated 30.04.2015.

Aggrieved against the judgment and decree of the trial court,

the appellant-plaintiff preferred an appeal before the lower appellate court, which was also dismissed on 17.03.2016 hence, the present regular second appeal.

Learned counsel for the appellant-plaintiff argues that the appellant-plaintiff has wrongly been held guilty of the loss caused to the State Exchequer as, nothing has come on record that the theft took place while the appellant-plaintiff was on duty. Qua the said argument, it may be noticed that the appellant-plaintiff has already been held guilty in the departmental proceedings qua the loss caused by him to the State Exchequer, which order has already attained finality. The said punishment order was not even impugned at the time of filing of the civil suit as only the recovery from the pensionary benefits was challenged. Once, the appellant-plaintiff has already been held guilty in the departmental proceedings, which order was never impugned by the appellant-plaintiff, there could not be any challenge to the recovery of the amount for which the appellant-plaintiff was held liable for prior to the date of superannuation.

Keeping in view the above, the assertion that the loss was not caused by the appellant-plaintiff, cannot be accepted as the said allegation has already been proved against the appellant-plaintiff in the departmental proceedings, which proceedings have already attained finality.

No other argument was raised by the learned counsel for the appellant-plaintiff.

Keeping in view the above, as no perversity in the judgments and decrees of the courts below could be pointed out by learned counsel for the appellant-plaintiff, no ground is made out to interfere by this Court in

the present regular second appeal.

Dismissed.

March 20, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No