

105 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CM-667-C-2023 in/and
RSA-450-2015
Date of decision:27.01.2023**

BALWANT SINGH

....Appellant

Verses

STATE OF PUNJAB & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Kaith, Advocate
 for the appellant.

HARSIMRAN SINGH SETHI, J (Oral):

CM-667-C-2023

This is an application for placing on record the documents A-1 to A-3 alongwith a list and dates of events in compliance of order dated 06.02.2020 passed in RSA-510-2020.

The application is allowed. Documents are taken on record.

On oral request made by the counsel for the petitioner, the main case is taken up, today, for hearing.

RSA-450-2015

In the present appeal, challenge is to the order and decree passed by the trial Court dated 28.01.2011 dismissing the suit filed by the appellant-plaintiff, as well as this appeal filed against the judgment and decree dated 28.01.2011 of the trial Court was upheld in the appeal preferred by the appellant by the lower Appellate Court vide order dated 22.07.2014, which orders are under challenge in the present Second Regular Appeal.

The facts which have emerged from the record are that the appellant was working as a driver with the respondent-State and while he was on duty on Bus No.-PB-12-C-9074, he met with an accident on 11.12.2001 wherein, one Harjinder Kaur died.

The claim petition was filed seeking claim before the Motor Accident Claims Tribunal by the claimants in respect of the death of Harjinder Kaur wherein, the Motor Accident Claims Tribunal came to a conclusion that the accident occurred due to the rash and negligent driving by the appellant herein and Motor Accident Claims Tribunal awarded compensation to the claimants, which was to be paid jointly or severally by the respondent-State as well the appellant herein, who was the driver of the bus. Thereafter, the respondent-State initiated disciplinary proceedings against the appellant for a major punishment by serving him a chargesheet on 06.04.2005. The inquiry was conducted qua the said charges alleged and the Inquiry Officer proved the charges against the appellant on the basis of record which also included the award by the Motor Accident Claims Tribunal, wherein the allegation alleged against the appellant was that the appellant, who was the bus driver was negligent and had caused the accident due to which, the respondent-Department had to pay the compensation to the claimants.

Keeping in view the charges proved, punishment was imposed upon the appellant on 22.10.2007 by which, 4 increments with cumulative effect were stopped. The said order of punishment was challenged by the appellant before the appellate authority but the said appeal was also dismissed by the Appellate Authority on 31.03.2009 and thereafter, order dated 22.10.2007 as well as the order dated 31.03.2009

were challenged by the appellant by filing a civil suit.

In the suit, plea was raised that there was no evidence before the Inquiry Officer to hold the appellant guilty except the judgment of the Motor Accident Claims Tribunal hence, the said judgment could not have been made the sole basis to hold the appellant guilty in the departmental proceedings and imposed the punishment of stoppage of 4 increments with cumulative effect and hence, the resultant order of punishment dated 22.10.2007 is liable to be set aside along with the consequential proceedings of the dismissal of his appeal by the appellate authority on 31.03.2009.

On the basis of the evidence which had come on record, the trial Court held that there was enough evidence before the Inquiry Officer to prove the allegation and once the allegation of negligence on the part of the driver has been proved, the same was good enough to take action against the appellant and the suit filed by the appellant was dismissed on 28.01.2011. The appeal preferred by the appellant was also dismissed by the lower Appellate Court upholding the decree and judgment of trial Court dated 28.01.2022. Hence the present Regular Second Appeal.

Learned counsel for the appellant argues that though it is a conceded position that the Tribunal on the basis of the evidence which came on record held the appellant guilty of rash and negligent driving but the said finding of the Motor Accident Claims Tribunal could not have been made basis of initiating the departmental proceedings and holding the petitioner negligent of driving so as to impose the punishment of stoppage of 4 increments with cumulative effect.

The said argument of the appellant is frivolous and cannot be

accepted as once in a competent Court of law, on the basis of the evidence led, the negligence of the appellant was proved, the department was well within its right to initiate departmental proceedings and take appropriate action for the said negligence, the department had also suffered financially so as to pay compensation to the claimants. As the proof required during the disciplinary proceedings is of probability, it cannot be said that the reliance being placed by the Inquiry Officer on the award of the Motor Accident Claims Tribunal wherein the appellant was held to be negligent and was driving the vehicle in a rash and negligent manner, so as to hold the appellant guilty in the departmental proceedings as well was not well founded.

Once the judgment of the Motor Accident Claims Tribunal had attained the finality, it was within the jurisdiction of the department authority concerned to rely upon the said award so as to initiate disciplinary proceedings and take an appropriate action against the appellant as well. Nothing has been shown as to why the said action was to be prohibited or could not have been taken keeping in view the rules governing the service.

Once the appellant has been held guilty in the departmental proceedings and the punishment was imposed after following the due process envisaged under the rules governing service conditions which fact has already come on record keeping in view the evidence led and the said evidence has been taken into consideration by the Courts below so as to dismiss the suit filed by the appellant as well as the appeal by the lower Appellate Court, there is no occasion with this Court to re-appreciate the facts so as to arrive at a different conclusion especially when Courts are not

to sit in appeal over the decision of departmental proceedings.

Further learned counsel for the appellant has not been able to show any perversity in the findings of the Courts below keeping in view the fact and evidence which has come on record. In the absence of any perversity being pointed out by learned counsel for the appellant, no interference is required for by this Court in the present Regular Second Appeal and the same is accordingly dismissed.

27.01.2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No