

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

(213)

RSA-3538-2014 (O&M)

Date of Decision : February 08, 2023

State of Haryana and others Through Collector KKR .. Appellants

Versus

Ranjit Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Mr. Karamveer Singh Banyana, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

Present Regular Second Appeal has been filed by the State of Haryana against the concurrent finding recorded by the Court below that the punishment imposed upon the respondent-plaintiff during the departmental proceedings was vitiated as the proper procedure envisaged for the enquiry was not followed and the Enquiry Officer had not taken into account certain evidence which had come on record to prove the allegations.

The trial Court vide judgment and decree dated 27.08.2013 allowed the suit filed by the plaintiff by which, he had challenged the charge sheet dated 24.05.2006, enquiry report dated 13.06.2006, show cause notice dated 19.06.2006, punishment order dated 06.07.2006, the

order dated 26.02.2007 passed in appeal by the Inspector General of Police as well as the order dated 24.02.2011 passed in revision by the Director General of Police. The plaintiff submits that the allegations on the basis of which the charge sheet was issued to him were that he had a quarrel with the shopkeeper and had destroyed some of his property (Eggs), which were kept in his shop and had also not behaved in a manner required for with the police officials who had come at the place of incident. For the said incident, an FIR was also got registered against the respondent-plaintiff being FIR No.15 dated 23.01.2006 at Police Station Naggal, District Ambala. During the pendency of the criminal proceedings, departmental proceedings were initiated against the plaintiff and a charge sheet was issued to him on 25.05.2006 alleging that he had destroyed the property of a shopkeeper (Eggs) and thereafter, misbehaved with the police officials, who had reached at the place of incident.

During the enquiry, statement of the shopkeeper in question namely Bhola Ram was recorded wherein, he had conceded that no property of the shopkeeper was damaged by the plaintiff and the allegations alleged against the plaintiff are incorrect. During the enquiry, along with the shopkeeper, the other independent witnesses from the public were also examined, who also did not support the allegations of misbehavior by the plaintiff with the police officials and despite the fact that the owner of the shop and even the general public whose statements were recorded by the Enquiry Officer, did not support the allegations still, by a cryptic order, the plaintiff was held guilty by the Enquiry Officer in the concluding paragraph, hence, the imposition of punishment by Superintendent of Police,

Kurukshetra vide order dated 06.07.2006 was bad and even the consequential orders passed by the authorities concerned in the appeal and revision are also bad in law.

The trial Court also noticed the fact that for the same incident, criminal proceedings were also initiated against the plaintiff in the shape of FIR No.15 dated 23.01.2006 wherein, the plaintiff was acquitted of the same allegations.

On the basis of the evidence which had come on record, the trial Court came to the conclusion that once an Enquiry Officer in his enquiry report has recorded the statement of the shopkeeper in question to the effect that none of his property was damaged and even the general public, whose statement was recorded, did not support that the plaintiff misbehaved in any manner, proving the charges without there being an evidence was not correct and therefore, the enquiry report being totally cryptic as the conclusion derived therein was not supported by the evidence on record, hence, the said enquiry report was found to be arbitrary and illegal and consequential order of punishment and rejecting of his appeal and revision were also set aside and his five increments which were stopped, were directed to be restored along with interest. Feeling aggrieved by the judgment and decree of the trial Court dated 27.08.2013, appeal was preferred by the State of Haryana, which also came to be decided on 27.11.2013 and the same was dismissed and the judgment and decree of the trial Court was upheld.

The trial Court recorded a finding that keeping in view the witnesses examined during the enquiry, who did not support the allegations,

and without recording a reason to disbelieve their statement, the plaintiff was held guilty of the allegations and finding was recorded by the trial Court that enquiry report was bad as the conclusion recorded therein, are not based upon the evidence which was on record before the Enquiry Officer. The appeal preferred by the State before the Court below was also dismissed, hence, the present Regular Second Appeal has been filed.

Learned counsel for the appellants argues that the Court below could not have gone into the enquiry proceedings as the Court does not have the jurisdiction to appreciate the evidence and facts again to arrive at a different conclusion.

Learned counsel for the appellants submits that no finding could have been recorded by the Court below for exonerating the plaintiff on the basis of acquittal by the criminal Court.

The main reason accepting the plea of the plaintiff by the Courts below is that the enquiry report, wherein the conclusions have been recorded, there is not evidence on record to support the said conclusion.

Though, there is no dispute with the said proposition of law that Court should not interfere in the disciplinary proceedings but in the present case, there was a challenge to the enquiry report as well by the plaintiff on the ground that the findings recorded by the Enquiry Officer are without any evidence on record, hence, Court was required to look into the evidence to ensure that enquiry report is based upon the evidence on record. The enquiry report is also produced on record.

The said argument need not to be dealt with by this Court for the reason that the said reason was given by the Courts below as an

additional reason so as to come to the same conclusion and the challenge of the plaintiff has not been accepted solely on the said ground.

A bare perusal of the enquiry report shows that the shopkeeper in question has stated before the Enquiry Officer, that no property of his was damaged by the appellant. Similar is the statement of the bystander, who stated that there was no misbehavior by the plaintiff with the police officials. Only the police officials, had supported their version that the plaintiff misbehaved with them and damaged the property of shopkeeper.

The Court was within its jurisdiction while examining the validity of enquiry report to go through the evidence which had come before the Enquiry Officer so as to support his conclusion. The fact shows that the independent witnesses never supported the allegations and it is only the two police officials, who were the interested party and were claiming to be abused by the plaintiff, had given a statement against him.

Nothing has come on record as to why the Enquiry Officer disbelieved the statement of the “aggrieved” shopkeeper and independent witnesses.

The Court was within its jurisdiction while examining the challenge to the enquiry report whether the conclusion is based upon the evidence on record or it is a case of no evidence. Present is a case of no evidence as the conclusion arrived at by the Enquiry Officer was not based on any evidence, which had come on record to show that the plaintiff was guilty of the allegations. Therefore, in the facts and circumstances of the present case where, enquiry report was under challenge, the examination of the enquiry report by the Civil Court cannot be considered to be bad or

without jurisdiction.

Learned counsel for the appellants has not been able to show that any of the finding which has been recorded by the Court below are contrary to the facts or the evidence on record. No perversity in the finding has been pointed out.

Keeping in view the facts mentioned hereinbefore, no interference is called for by this Court in the present Regular Second Appeal and the same is dismissed.

As the main appeal has been dismissed, application i.e. CM-8188-C-2014 also stands dismissed.

February 08, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes