

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 547 of 2020 (O&M)****Date of Decision: 21.09.2023**

Netra Pal Singh

... Appellant(s)

Versus

M/s Imperial Auto Industries Limited and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Bhisham Kumar Majoka, Advocate
for the appellant(s).

Anil Kshetarpal, J.**CM-1594-C-2020**

1. For the reasons stated in the application, the same is allowed and delay of 22 days in refiling the appeal is condoned.

RSA-547-2020

2. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

3. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff.

4. The plaintiff's suit for the grant of decree of declaration that that forcible resignation taken from him by the management is illegal, null and void with a consequential relief of mandatory injunction directing the

defendants to release the compensation amount along with the service

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benefit, has been dismissed by both the Courts below.

5. At the outset, it is important to note that there was no forceful resignation in this case. The appellant was dismissed from service vide order dated 07.07.2016 after serving a charge sheet, appointing the Inquiry Officer, examining the report of the Inquiry Officer and ultimately, the management dismissed the appellant from service. The respondent No.1 herein is a limited company. The plaintiff has not challenged the correctness of the order of punishment dated 07.07.2016. Moreover, it has come on record that the plaintiff absented himself from the duty from 01.09.2015 to 20.09.2015. On 21.09.2015, he came to the factory for some time only then he left. Similarly, on 23.09.2015, he came on duty, however, left the factory without any valid permission. Again, on 28.09.2015, he worked upto half the time and then went away without any permission. He was absenting himself from duty w.e.f. 18.11.2015 without any permission and authorization.

6. In view the aforesaid facts, which were proved in the departmental inquiry, both the Courts below have refused to interfere in this case.

7. Keeping in view the aforesaid peculiar facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

September 21, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No