

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 5589 of 2018 (O&M)****Date of Decision: 20.10.2023**

Ex-Constable Parminder Singh

... Appellant(s)

Versus

The State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Alka Chatrath and Mr. Nikhil Singh, Advocates
for the appellant(s).

Mr. Vikas Arora, Assistant Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.**CM-15426-C-2018**

1. For the reasons stated in the application, the same is allowed and delay of 62 days in refiling the appeal is condoned.

RSA-5589-2018

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. In this second appeal, the plaintiff assails the correctness of the concurrent findings of facts, arrived at by both the Courts below, while dismissing the suit for the grant of decree of declaration that the order dated

dismissing him from service is illegal, null and void, which, in appeal, was affirmed by the Appellate Authority.

4. In this case, the plaintiff got recruited as a Constable in the Punjab Police on the basis of matriculation certificate showing that his date of birth is 14.02.1972. Subsequently, it came to the notice of the employer that earlier also the appellant passed his matriculation examination in which his date of birth was recorded as 04.10.1965. Pursuant thereto, a departmental inquiry was held and an FIR was registered against the appellant. In a criminal case, he was acquitted of the charges, however, in the departmental inquiry, it was held that the charges against the appellant are proved. After granting an opportunity to show cause, the appellant was dismissed from service in the year 2011. He filed an appeal against the order of dismissal before the Deputy Inspector General of Police, which was dismissed on 20.03.2012. Thereafter, the appellant has filed a civil suit which, as already noticed, has been dismissed by both the Courts below.

5. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

6. The learned counsel representing the appellant contends that in a criminal case, arising from the same charges, the appellant has been acquitted. The learned counsel submits that the Disciplinary Authority has not taken into account the fact that the appellant has served the department for nearly 19 years.

7. This Court has considered the submissions. The standard of proof required for proving a criminal charge is much more stringent when compared with the domestic inquiry (departmental inquiry). Moreover, the

judgment passed in a criminal case is not binding on the Civil Court.

8. Even otherwise, the aforesaid judgment would not be relevant in view of the provisions of Section 40 to 44 of the Indian Evidence Act, 1872.

9. As regards the second argument, it would be noticed that the First Appellate Court has considered this aspect in the context of the service rules. It is found that the appellant does not deserve any leniency particularly when he secured his appointment on the basis of a false matriculation certificate.

10. Keeping in view the aforesaid 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

October 20, 2023
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No