

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 241 of 2020 (O&M)

Date of Decision: 21.09.2023

Sumer Singh

... Appellant(s)

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Mukesh Yadav, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. 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*.

2. 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.

3. The plaintiff's suit for the grant of decree of declaration that the office order No. 67, dated 07.02.2009, is illegal, uncalled for and is not binding on the rights of the plaintiff and he is entitled to the grant of decree of declaration that his suspension period from 19.09.2006 to 28.05.2007 sanctioned as leave of the kind due is illegal, null and void. He has also sought relief of mandatory injunction directing the defendants to refund the

amount of ₹1,13,160/- illegally recovered from the death-cum-retirement

gratuity of the plaintiff along with the interest @ 18% per annum. It has come on record that the charge sheet was issued to the appellant on 01.05.2007 with the allegation that he, after receiving the illegal gratification of ₹20,000/- caused pecuniary loss to his employer i.e. Nigam. However, after the receipt of reply, it was found that the appellant retired on 31.03.2008. Ultimately, the competent authority, rather than going ahead with the departmental inquiry, considered it appropriate to impose minor punishment of the recovery of the pecuniary loss and stoppage of two increments without the cumulative effect. The appeal was filed by the appellant, but, thereafter, he filed the present suit. As already noticed, both the Courts below found that the procedure prescribed in the rules has been followed by the Disciplinary Authority while ordering the punishment.

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

5. The learned counsel representing the appellant submits that the appellant has filed an application for permission to lead additional evidence in order to produce an information under the Right to Information Act, 2005 along with the comments of the Assistant General Manager, Operational Sub Division of the communication dated 31.03.2009.

6. This Court has carefully read the aforesaid comments. This is an internal communication amongst the various officers of the department. Hence, that internal communication would not supersede the opinion formed by the Disciplinary Authority after considering the charge sheet and the reply filed by the appellant.

7. 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.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

September 21, 2023

“DK”

(Anil Kshetarpal)
Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No