

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

(211)

RSA-1213-1993

Date of Decision : January 19, 2024

Balwinder Singh**.. Appellant****Versus****State of Punjab****.. Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Ms. Manveen Kahlon, Advocate, for the appellant.

Mr. Rohit Ahuja, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present regular second appeal, the challenge is to the judgment and decree of the Courts below dated 12.09.1986 and 19.01.1993 by which, the suit filed by the appellant challenging the order dated 12.07.1982 by which the services of the appellant-plaintiff were terminated during the period of probation, was dismissed by the trial Court, which order has been upheld by the lower Appellate Court.

2. Learned counsel for the appellant submits that no doubt, the appellant-plaintiff was on probation when the impugned order dated 12.07.1982 was passed by the respondent but the same was based keeping in view the fact that the appellant-plaintiff met with an accident during the course of his services and a case was registered against him under Section 304-A of the IPC. Learned counsel for the appellant further submits that though the order terminating the services is an order simplicitor but same is

based upon the said accident whereas, in the criminal proceedings which were initiated against the appellant, the appellant-plaintiff had already been acquitted.

3. The said argument has to be tested keeping in view the certain factual aspects.

4. It is a conceded fact that the appellant-plaintiff was on probation at the time when the impugned order dated 12.07.1982 was passed terminating his services. The question which arises is whether, keeping in view the facts and circumstances that the appellant-plaintiff was a probationer, the impugned order is stigmatic order or is it to be termed as an order imposing penalty upon the appellant in any manner. The order terminating the service which was passed by the respondent is as under:-

“ The services of Balwinder Singh, Driver No.116 are hereby terminated with immediate effect as per the terms and conditions of his appointment order.

*Sd/- General Manager,
Punjab Roadways,
12.7.1982.”*

5. A bare perusal of the order would show that an innocuous order has been passed terminating the services of the appellant-plaintiff keeping in view the terms and conditions of his appointment order. It is a conceded position that it has been mentioned in the appointment order that in case the work and conduct of the appellant-plaintiff has not been found to be satisfactory, his services can be terminated. The order passed by the respondent is order simplicitor without there being any stigma and is within the terms and conditions of the appointment order of the appellant-plaintiff hence, terming the said order as a stigmatic order by the appellant-plaintiff is rightly declined by the Courts below while dismissing the suit filed by the appellant-plaintiff as well as the appeal by the lower Appellate Court.

6. Learned counsel for the appellant-plaintiff has argued that the order terminating the services of the appellant was a result of a criminal case registered under Section 304-A IPC keeping in view the accident which occurred during the course of the employment of the appellant. The said apprehension is not proved from the order, which has been reproduced hereinbefore.

7. Nothing has come on record that the appellant has been punished for any accident caused by him. Rather, the termination order is very simple without there being any motive attached to it or the same being passed as a matter of punishment. It is a settled principle of law that the employer is within its jurisdiction to pass appropriate order during the period of probation keeping in view the work and conduct of the employee and in the present case, after appreciating the work and conduct of the employee during the probation, the order simplicitor was passed terminating his services, which order has rightly been upheld by the lower Appellate Court.

8. Learned counsel for the appellant submits that keeping in view the judgment of the Hon'ble Supreme Court in ***Civil Appeal No.2029 of 2022 titled as Abhay Jain vs. High Court of Judicature for Rajasthan and another, decided on 15.03.2022***, it was incumbent upon the respondent to hold an enquiry in case, any negligence was to be proved keeping in view the criminal proceedings, which were initiated against the appellant-plaintiff in pursuance to the accident which occurred during the service.

9. The said judgment will not be applicable in the present case. Once, there is no action being taken against the appellant in pursuance to the accident which occurred during his service career and the appellant was on probation and the order passed is simplicitor terminating the services as

per the terms and conditions of the appointment, the judgment in *Abhay Jain’s case (supra)* will not be applicable in the facts and circumstances of the present case.

- 10. No other argument was raised.
- 11. Keeping in view the above, as no perversity in the findings recorded by the Courts below have been pointed out by the learned counsel for the appellant while arguing the present appeal, no reason arises for setting aside the said reasoned and valid judgment of the Courts below.
- 12. Dismissed.

January 19, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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