

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(217)

RSA-1327-1993

Date of decision:- 29.01.2024

Tara Singh

... Appellant

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Pawan Kumar Bansal, Advocate for the appellant.

Mr. Athar Ahmed, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Plaintiff-appellant has filed the instant second appeal assailing concurrent finding of fact recorded by both the Courts below.
2. Tara Singh, plaintiff-appellant, was working as a Forest Guard, when he was served with a charge-sheet vide memo dated 17.12.1984, to which he submitted a reply. As reply was found to be unsatisfactory, a regular enquiry was ordered and he was found guilty of the charges. An order dated 11.04.1986 was passed, whereby his pay scale was reduced to the starting point of his scale and two increments were stopped with cumulative effect. He filed a suit for declaration to the effect that the punishment order is illegal, void against the principles of the natural justice and for grant of consequential benefits.
3. Upon notice, defendants-respondents filed a written statement contesting the claim on merits. It was submitted that the plaintiff-appellant

did not submit any response to the show cause notice, departmental enquiry was conducted, due opportunity was given to him and on the basis of the report of the enquiry officer, order under challenge was passed.

4. Counsel for the appellant could not dispute that the plaintiff-appellant has a remedy of filing an appeal under the Service Rules, which he has not availed of.

5. I have heard counsel for the parties and examined the record with their able assistance.

6. A perusal of order dated 11.04.1986, Ex.P-6, shows that it has been passed imposing a major penalty under the Punjab Civil Services (Punishment and Appeal) Rules, 1970. The order is appealable under Rule 15 *ibid*. There is nothing on the record to show that the plaintiff-appellant has availed the remedy available to him under the rules.

7. In view of the above, since the plaintiff-appellant has a departmental remedy, appeal is disposed of and liberty is granted to him to take recourse to the remedy available in accordance with law.

(SUVIR SEHGAL)
JUDGE

29.01.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No