

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2078 of 1992

**Reserved On: 23.11.2023
Pronounced On: 18.01.2024**

Darshan Singh

... Appellant(s)

Versus

Managing Director, Pepsu Road Transport Corporation, Patiala and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. A.S.Pannu, Advocate
for Mr. Vikas Singh, Advocate
for the appellant(s).

Mr. Sarabjeet Singh Khaira, Advocate
for the respondents.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab and 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. In this regular second appeal, the plaintiff assails the correctness of the judgment and decree passed by the First Appellate Court, which, in turn, has reversed the judgment and decree passed by the trial Court.

3.

The plaintiff filed a suit for the grant of decree of declaration

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that the order dated 23.05.1985, passed by the Depot Manager while awarding the punishment of stoppage of five increments with cumulative effect, is illegal, null and void.

4. In order to comprehend the issue involved in the present case, some facts are required to be noticed. On 28.12.1984, the plaintiff was suspended from his service. On 22.01.1985, he was charge sheeted for the following charges:-

- “(i) *Major misconduct.*
- (ii) *For issuing pass to Shri Balwinder Singh S/O Shri Piara Singh, Vill. Begowal under his own signatures wrongly.*
- (iii) *Defrauding the Corporation to the extent of ₹312.85 Paise.*
- (iv) *To make wrong entries in Receipt No. 172584 to the tune of e.96.85paise and difference in the receipt of pass and counter receipt deposited with the office.*
- (v) *Act subversive of office discipline.”*

5. The appellant replied to the charge sheet on 14.05.1985, while confessing all the charges levelled against him. He also stated in the reply that he does not want any inquiry and he should be taken back in service. On the basis of his aforesaid confession, he was afforded an opportunity of personal hearing vide the office memo dated 17.05.1985, whereas he was personally heard on 21.05.1985. Ultimately, on 23.05.1985, taking a lenient view, the Punishing Authority ordered the stoppage of his annual increments with cumulative effect. As noticed, he filed a civil suit, which was decreed

by the trial Court on two counts, namely, (i) the signatures of the plaintiff are

different from the writing on the documents Ex.D2 and Ex.D4, therefore, it is established that the Depot Manager had obtained his signatures on the blank papers and (ii) the impugned order was passed by the Depot Manager, who is not competent to pass such orders.

6. In the first appeal, the judgment and decree passed by the trial Court were reversed. The First Appellate Court held that as per the applicable regulations the Depot Manager has the power to pass the impugned order and there is no evidence to prove that his confession has been typed on the blank signed papers.

7. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book and the requisitioned trial Court record along with the synopsis filed by the learned counsel representing the appellant.

8. The learned counsel representing the appellant has failed to bring any material on record to prove that the Depot Manager is not entitled to pass the impugned order. It is submitted that the appellant was working in the Pepsu Road Transport Corporation and the post of the Depot Manager is equivalent to the post of General Manager in the Punjab Roadways. While drawing the attention of the Court to the decision of the Board of Directors, it is submitted that the Depot Managers were re-designated as General Managers.

9. The first reason assigned by the trial Court is also erroneous because the appellant, while submitting reply on 14.05.1985, had himself confessed all the charges levelled against him. Thereafter, he was given an opportunity of personal hearing. Ultimately, the authorities came to a

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conclusion that the documents (Ex.D2 and Ex.D4) are the confessions of the appellant with respect to his misconduct. Furthermore, it has come on the record that the appellant submitted his reply to the charge sheet in the Dispatch and Receipt Register, which, after processing, was ultimately received by the Depot Manager. The document (Ex.D2) dated 14.05.1984, was received through the post office. Hence, the story put forth by the appellant that he was called by the Depot Manager in his room and he obtained his signatures on the blank paper, is not proved.

10. Keeping in view the aforesaid facts and discussion, no ground is made out to interfere with the findings arrived at by the First Appellate Court. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

January 18, 2024
“DK”

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