

RSA-2668-1994

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(209)

RSA-2668-1994
Date of decision:- 19.01.2024

State of Punjab and others ... Appellants

Versus

J.P.Chander, Executive Engineer and others ... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikas Arora, AAG, Punjab

None for the respondents.

SUVIR SEHGAL, J. (ORAL)

1. Appellants-defendants are in second appeal before this Court challenging the concurrent finding of fact recorded by both the Courts below.
2. Plaintiffs-respondents filed a civil suit for declaration that Memo dated 29.06.1988 and 09.08.1988 issued by the Department, whereby panel comprising of different officers has been constituted to hold an enquiry regarding reading of measurements, are void, illegal without jurisdiction and authority as well as against the Departmental Codal Rules with consequential relief of permanent injunction restraining the defendants from initiating any disciplinary or penal action against them on the basis of the report submitted by such a panel.
3. Plaintiffs, who was working as Engineers, were responsible for the execution of repair work of various State roads. It has been pleaded that the repair work was satisfactorily carried out according to the provisions

made in the sanctioned estimate and as per specifications, which were duly verified by an official of the Accountant General, Punjab, before making payment. In the discharge of official duties, plaintiff-respondent No.1 imposed penalty of Rs.68,290/- upon a contractor due to his failure in making the supplies and he submitted a false complaint alleging deficiencies in the works executed in the year 1987-88. The complaint was investigated by the then Chief Vigilance Officer and no deficiency was found in the works. In the rains and floods, road was damaged and the berms were washed away. Impugned Memos were subsequently issued constituting panel of officers to examine the work carried out by them. Pleading that the defendants had no authority or jurisdiction to constitute the panel, civil suit, described above, was filed.

4. Upon being served, respondents filed a written statement contesting the suit on various grounds. It was pleaded that the panel was constituted after getting permission from the Chief Engineer after substance was found in the complaint submitted against the plaintiffs. Countering the stand of the defendants-appellants, replication was filed. After framing of issues and leading evidence by the parties, Trial Court by judgment and decree dated 28.08.1991 accepted the suit and granted declaration as well as permanent injunction as prayed for. State-defendants remained unsuccessful in the first appeal.

5. In all fairness, learned State counsel submits that at this stage even if the appeal is accepted, and the impugned Memos constituting panel are upheld, it will not be feasible to carry out the inspection of the roads, which by now must have been relaid a number of times.

6. In view of the above, this Court is of the view that the appeal has become infructuous due to efflux of time and is dismissed as such.

19.01.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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