

RSA-697 of 1994

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

RSA-697 of 1994

Reserved on: 04.03.2024

Pronounced on: 15.03.2024

Dalip Singh

.....Appellant

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Ms. Anamika Sheoran, Advocate, and
Mr. Vikas Singh, Advocate,
for the appellant.

Mr. Rajesh Sehgal, Addl. A.G., Punjab.

NAMIT KUMAR, J.

1. This Regular Second Appeal is directed against the judgment and decree dated 28.08.1993 passed by the Court of learned Additional District Judge, Faridkot, whereby appeal filed by the respondent-State has been accepted and suit filed by the plaintiff-appellant stands dismissed.

2. For convenience sake, reference to parties is being made as per their status in the civil suit. Briefly stated, Plaintiff filed a suit for declaration to the effect that the order dated 01.09.1987, passed by the General Manager, Punjab Roadways, Moga, by virtue of which his three annual increments with cumulative effect were stopped was illegal, ultra vires, wrong, null and void. It was submitted in the plaint

that plaintiff is employed as a conductor in the Department of Transport, Punjab Roadways, Moga and he is a civil servant and as such he is entitled to protection under Punjab Civil Services (Punishment and Appeal) Rules 1970 and Article 311 of the Constitution of India. The plaintiff was placed under suspension by the General Manager, Punjab Roadways, Moga and a charge-sheet was served upon him. The plaintiff filed reply to the charge-sheet, in which he denied all the allegations levelled against him. It was pleaded that the charge sheet was vague, indefinite and did not contain sufficient material as required under the law and rules and it presupposed the guilt of the plaintiff without any formal proof. The department has not given the entire list of witnesses, which were to be examined before the Enquiry Officer, alongwith the charge sheet and as such there is violation of Rule 8 Sub clause 4 of P.C.S. (P&A) Rules, 1970. It was further stated that the plaintiff was not given an opportunity to have the assistance of a co-worker as defence helper, as he was not conversant with the procedure of enquiry. The enquiry officer was neither a punishing authority nor he was delegated with powers to hold the enquiry and the enquiry was without jurisdiction. The Enquiry Officer has not conducted the enquiry in accordance with the PCS (P&A) Rules, 1970. The Enquiry Officer has not conducted the enquiry himself. It was further stated that the copy of complaint on the basis of which the plaintiff was charge-sheeted was not supplied to the plaintiff at any stage and this caused prejudice to the plaintiff. That no interim order as required under Rule 8 Sub-clause 11 of the PCS (P&A) Rules,

1970, was passed by the Enquiry Officer and non-passing of this order, vitiates the entire enquiry proceedings as the valuable rights of the delinquent official for the inspection of documents and summoning of documents, if any, for the purposes of effective cross-examination of prosecution witnesses had been taken away. It was further submitted that show cause notice was not served upon the plaintiff before passing the impugned order nor the copy of the findings of the Enquiry Officer was supplied to the plaintiff and without the service of show cause notice and the copy of the findings of the Enquiry Officer, the increments of the plaintiff could not be stopped with cumulative effect and as such the order is illegal and against rules. The plaintiff sent a notice under section 80 CPC to the defendant, under registered/A.D. cover which was duly served, but to no effect.

3. Upon notice, defendant appeared and filed written statement raising preliminary objections with regard to jurisdiction, the suit is time barred and not maintainable in the present form. It was stated on merit that the charge sheet is correct, legal, specific and detailed and it contained sufficient material as per rules. The charge sheet was drawn according to rules and list of witnesses and documents were supplied to the plaintiff alongwith the charge sheet. The plaintiff has refused the offer of the Enquiry Officer regarding assistance of co-worker in the enquiry proceedings and the Enquiry Officer was duly appointed to conduct the enquiry against the plaintiff and the enquiry was conducted as per rules and principles of natural justice. The Enquiry Officer himself conducted the enquiry and the copies of all

relevant documents were supplied to the plaintiff. It was further submitted that the Enquiry Officer has passed all the necessary orders under the rules and plaintiff was given proper opportunity to inspect and summon the documents and witnesses and he was given proper opportunity to cross-examine the witnesses and to produce his defence. Show-cause notice was served on the plaintiff and a copy of the findings of the Enquiry Officer was supplied to the plaintiff alongwith show-cause notice before passing the final order. No proper notice under Section 80 CPC has been served before filing the suit. All other allegations made in plaint were denied by the defendant as incorrect.

4. From the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the order dated 1.9.1987 passed by the General Manager, Punjab Roadways, Moga is illegal, ultravires, wrong, wanton, crypric etc.? OPP
2. Whether this court has no jurisdiction to entertain and try this suit? OPD
3. Whether the suit is time barred? OPD
4. Whether the suit is not maintainable in the present form? OPD
5. Relief.”

5. Parties led oral as well as documentary evidence in support of their respective contentions.

6. After hearing arguments and appreciating evidence on record, trial Court decreed the suit of the plaintiff vide judgment and decree dated 08.02.1993.

7. Aggrieved against the judgment and decree of the trial Court, defendant-State preferred an appeal before the lower appellate Court, which has been allowed vide judgment and decree dated 28.08.1993.

8. Learned counsel for the appellant contended that the lower appellate Court has erred in law in reversing the well-reasoned judgment of the trial Court. She further contended that appellant was not given a reasonable opportunity to defend himself and the enquiry is in violation of the principles of natural justice. She further contended that necessary documents were not supplied to the appellant and there are discrepancies in the statements of the material witnesses. She further submitted that during enquiry, statements of passengers were not recorded. She further contended that there is violation of Rule 8(4) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. She further contended that judgment and decree of the lower appellate Court are based on surmises and conjectures and the same are liable to be set aside.

9. On the other hand, learned State counsel submitted that judgment of the lower appellate Court is perfectly valid and legal, therefore, same does not require any interference by this Court and present appeal is liable to be dismissed.

10. I have heard learned counsel for the parties and perused the record.

11. Perusal of the record shows that appellant appeared before the enquiry officer on 08.09.1986 and stated that he had received the

documents connected with the charge-sheet. The enquiry officer offered the assistance of a co-worker to the appellant which was refused by him. The lower appellate Court has rightly recorded that once the plaintiff had himself admitted that he had received all the documents, there was no occasion to give five days for inspection as the documents were already provided to him. Thus, there is no violation of Rule 8(4) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. It is well settled that Courts ought to refrain from interfering with findings of facts recorded in a departmental inquiry except in circumstances where such findings are patently perverse or grossly incompatible with the evidence on record, based on no evidence.

12. Learned counsel for the appellant has failed to point out any illegality or perversity in the impugned judgment and decree of the lower appellate Court.

13. No question of law, muchless substantial question of law has been raised or arises for consideration in the present appeal. No other point has been urged.

14. In view of the above, present appeal is dismissed.

15. Pending application(s), if any, stand disposed of accordingly.

15.03.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No