

RSA-1557 of 1995 (O&M)

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

RSA-1557 of 1995 (O&M)

Reserved on: 13.03.2024

Pronounced on: 21.03.2024

Tilak Raj

.....Appellant

Versus

Punjab State and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: - Mr. P.S. Chahal, Advocate,  
for Mr. G.S. Nagra, 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 10.01.1995 passed by the Court of learned Additional District Judge, Ferozepur, whereby appeal filed by the respondents-State against the judgment and decree dated 17.12.1991 passed by the Court of learned Sub Judge, Ferozepur, has been allowed, judgment and decree of the trial Court has been set aside and suit of the plaintiff-appellant has been dismissed.

2. Parties to the lis are being referred to as per their status before the trial Court. Briefly stated, plaintiff pleaded that he is the regular and permanent employee in the Punjab Police and in the year 1984 he was posted at Police Station City Fazilka. In 1986 a

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departmental enquiry was launched against him on the allegations that while posted at Police Station City Fazilka in 1984, he along with ASI Paramjit Singh detected eight persons gambling near Sub-Jail, Fazilka but out of those eight persons, four were let off by them whereas remaining four were challaned in two cases bearing F.I.R. No. 132/84 and 133/84 registered under Section 13 of the Gambling Act at Police Station City Fazilka. In the said cases they swindled the amount of Rs.2,000/-recovered from the accused persons. Vide order dated 09.03.1987, Senior Superintendent of Police, Ferozepur, forfeited plaintiff's five years approved service with permanent effect. Against the said order, plaintiff filed appeal before the Deputy Inspector General of Police, Ferozepur Range, Ferozepur and the appeal was rejected vide order dated 05.07.1988 except that the punishment was reduced to forfeiture of one years approved service. Impugned orders dated 09.03.1987 and 05.07.1988 were challenged by way of suit for declaration by the plaintiff. On 19.05.1989 trial court struck off the defence of the defendants for non-filing of the written statement.

3. From the pleadings of the parties, learned trial Court framed the following issues:-

1. Whether the orders dated 9.3.1987 passed by the S.S.P. Ferozepur and dated 5.7.1988 passed by the Deputy Inspector General of Police is null and void on the grounds mentioned in the plaint? OPP
2. Whether the plaintiff is entitled to the declaration prayed for? OPP
3. Whether notice under section 80 C.P.C. served upon the defendants before filing the present suit is invalid? OPD

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4. Whether the suit is not maintainable in the present form? OPD
5. Whether the suit is bad for non-joinder of necessary parties? OPD
6. Relief.

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

5. After hearing arguments and after appreciating evidence on record, trial Court decreed the suit of plaintiff vide judgment and decree dated 17.12.1991.

6. Aggrieved against the judgment and decree of the trial Court, respondents-defendants preferred an appeal before the lower appellate Court, which has been accepted vide judgment and decree dated 10.01.1995.

7. Learned counsel for the appellant contended that the lower appellate Court wrongly reversed the well-reasoned judgment of the trial Court. He further contended that while conducting departmental enquiry proper procedure was not followed by the department under Rules 16.24 and 16.38 of the Police Rules. The appellant was not supplied the copies of statements of witnesses and other documents as required under law. The enquiry officer has no jurisdiction to examine the witnesses whose names were not mentioned in the list and further submitted that the facts finding report cannot be taken into consideration by punishing authority while awarding punishment to the appellant. He further contended that respondents-defendant did not file written statement, therefore, claim of the appellant-plaintiff is deemed to be admitted by them and the trial Court rightly decreed the suit of the

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plaintiff. He further contended that the judgment and decree of the lower appellate Court is illegal and against the law, therefore, the same is liable to be set aside.

8. *Per contra*, learned State counsel supported the judgment and decree of the lower appellate Court. He further contended that judgment and decree of the trial Court was based on mis-reading of evidence and law, therefore, same has rightly been set aside by the lower appellate Court.

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

10. In the present case allegations against the plaintiff-appellant were that he along with ASI Paramjit Singh found eight persons gambling near Sub-jail, Fazilka but out of those eight persons, four persons were let off whereas four were challaned in case FIR Nos.132 of 1984 and 133 of 1984 under Section 13 of the Gambling Act at Police Station City Fazilka and plaintiff and ASI Paramjit Singh embezzled amount of Rs.2,000/- from the accused persons. Perusal of the record shows that departmental enquiry against the plaintiff was conducted as per Punjab Police Rules and necessary sanction of the District Magistrate as required under Rule 16.38 of the Punjab Police Rules was obtained and regular departmental enquiry was conducted under Rule 16.25 of the Punjab Police Rules and reasonable opportunities were afforded to the plaintiff to defend himself, therefore, departmental proceedings do not suffer from any illegality and Senior Superintendent of Police, Ferozepur was competent to pass the

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impugned order against the appellant-plaintiff. No provisions of the Punjab Police Rules were violated during the course of conducting departmental enquiry while passing the impugned order.

11. Learned counsel for the appellant has failed to show that findings recorded by the lower appellate Court are perverse or illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

12. 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.

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

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

21.03.2024  
R.S.

**(NAMIT KUMAR)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No