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

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Date of decision: 14.05.2024

THE STATE OF PUNJAB & ANR.

...APPELLANTS

VS.

GIRDHARI LAL

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Brijesh, AAG, Punjab.

Mr. Vikas Singh, Advocate
for the respondent.

SUVIR SEHGAL J. (ORAL)

1. Defendants-appellants are in second appeal before this Court assailing judgment dated 26.05.1995 passed by the First Appellate Court.
2. Pleaded case of the plaintiff-respondent, who was working as a Conductor, is that a charge-sheet dated 18.01.1985 was served upon him, to which, he submitted a reply, but the defendants appointed an Enquiry Officer, who submitted a report. A show cause notice dated 16.04.1986 was served upon him and he submitted his explanation, but without considering it, vide order dated 31.07.1986, punishment of stoppage of four increments with cumulative effect, was imposed. He filed a suit for declaration challenging the punishment order on various grounds.



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3. Upon notice, defendants filed a written statement contesting the suit. Defendants took a stand that the principles of natural justice were complied with and the plaintiff was given full opportunity to defend himself before the Enquiry Officer and penal action has been taken against him by a competent officer. Replication was filed by the plaintiff controverting the stand taken by the defendants. On the basis of the pleadings, issues were framed and after the parties led evidence, Trial Court by judgment and decree dated 01.10.1991, dismissed the suit. First appeal filed by the plaintiff was accepted by the learned Additional District Judge, Rupnagar, and the judgment and decree passed by the Trial Court was set aside vide judgment under challenge herein.

4. I have heard counsel for the parties and considered their respective submissions.

5. First Appellate Court has reversed the judgment of the Trial Court on two grounds. Firstly, the Court has found that the show cause notice served upon the plaintiff is vague and secondly, a finding has been recorded that during enquiry, witnesses were examined without administering oath. On the basis of this conclusion, the lower appellate court has held that the punishment of censure imposed on the plaintiff is bad in law and quashed the punishment order.

6. A perusal of the judgment passed by the learned First Appellate Court shows that it is not based on correct appreciation of the facts. The plaintiff was neither given a show cause notice for censure nor was punishment of censure ever imposed upon him. It is evident that the First Appellate Court has not appreciating the factual position and has

proceeded on wrong premise. This Court is, therefore, of the view that the matter deserves to be remitted and decided again by the first appellate court, after hearing the parties.

7. Consequently, impugned judgment dated 26.05.1995 passed by the learned Additional District Judge, Ropar, is set aside. Matter is remanded to the District Judge, Ropar, for decision afresh after affording an opportunity of hearing to the parties.

8. Needless to mention, learned District Judge, may hear the appeal himself or may assign it to any Court of Competent jurisdiction.

9. Appeal is disposed of.

10. Parties are directed to appear before the learned District Judge, Rupnagar, on 02.07.2024 at 10.00 A.M.

14.05.2024

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(SUVIR SEHGAL)
JUDGE

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