

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-1040-1997 (O&M)
Reserved on: 22.11.2023
Date of decision: 31.01.2024

THE HARYANA STATE FEDERATION OF CONSUMERS
COOPERATIVE WHOLESALE STORES LTD.

..Appellant

Versus

JAGDISH SINGH RAWAT

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sajan, Advocate
for Mr. G.D. Wasu, Advocate
for the appellant.

Mr. V.D. Sharma, Advocate
for Mr. Yashdev kaushik, Advocate
for respondent.

ANIL KSHETARPAL, J.

1. The Regular Second Appeal in the States of Punjab, 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 Vs. Chandrika and others, (2016) 6 SCC 157.

2. The defendants in this regular second appeal assail the correctness of the judgment and decree passed by the First Appellate Court, which in turn has allowed the plaintiff's first appeal and set aside the judgment and decree passed by the trial Court.

3. In order to comprehend the controversy involved in the present case, some brief facts are required to be noticed.

On a careful perusal of the departmental inquiry Ex.D-13, it is

evident that the inquiry officer after taking note of the statement of charges levelled against the respondent, proceeded to record the statement of Sh. A.K. Bishnoi, the presenting officer, who produced some documents. Thereafter, the presenting officer produced a copy of the inquiry report as 'Annexure A-1' and copy of the complaint of the salesman as 'Annexure B'. Subsequently, the statement of the delinquent employee i.e. was recorded. On the basis of the aforesaid facts, the inquiry officer concluded that the charge levelled against the respondent has been proved. In substance the charge is that the respondent did not supply hundred quintals of levy rice to the confed retail outlets rather sold it in the black market. However, he obtained signatures from the various salesmen of the retail outlets located in village Hasanpur, Bhiduki, Likhi and Khambi that the supply of levy rice has been received on 23.03.1988. The statement of none of the salesmen was examined in the inquiry report. In conclusion, it is evident that apart from a copy of the complaint of a salesman and preliminary fact finding inquiry report Annexure 'A', no evidence has been produced. The First Appellate Court has recorded the exact scenario while reversing the judgment of the trial Court. There is no substance in the arguments of the learned counsel representing the appellant that Sh. Ved Ram, salesman of village Khambi has been examined in the Court. It is a principle of natural justice that even in a domestic inquiry, some material evidence must be produced in order to prove the charges levelled on the employee. The inquiry shall be based on the material evidence produced. Undoubtedly, the Court has a limited power to interfere into such matters, however, if no evidence in support of charge framed is produced and perversity is apparent on the face of it, then the Court shall not overlook the same. Reliance in this regard can be placed on the judgment passed by the

Supreme Court in *Kuldeep Singh Vs. Commissioner of Police, (1999) 2 SCC 10*, wherein, the Court after examining the case law on the subject held that if a decision is arrived at in the absence of evidence, or on evidence, which is thoroughly unreliable and no reasonable person in its ordinary prudence would have acted in accordance with it, the order would be considered perverse and malafide.

5. After the supply of the inquiry report, the respondent while filing his reply, brought this fact to the notice of the managing director (MD), however, even the MD failed to examine the same.

6. Keeping in view the aforesaid facts and discussion, this Court does not find it appropriate to interfere with the findings of the fact arrived at by the First Appellate Court, hence, the appeal filed by the defendants is dismissed.

7. All the pending miscellaneous applications, if any, are also disposed of.

January 31st, 2024
Ay

(ANIL KSHETARPAL)
JUDGE

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