

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

(201)

RSA-1980-1996 (O&M)

Date of Decision : February 16, 2024

Haryana State through Collector, Karnal and another

.. Appellants

Versus

Dr. D.P. Goel, Medical Officer, Karnal and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Mr. Naveen Daryal, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present appeal, the judgment and decree of the trial Court dated 07.10.1993 as well as judgment and decree of the lower Appellate Court dated 13.12.1995 have been impugned by which, the suit filed by the respondent-plaintiff was allowed and the appeal filed by the State was rejected respectively.

2. Learned counsel for the appellants argues that the punishment of stoppage of one increment without cumulative effect was imposed upon the respondent-plaintiff after holding the disciplinary proceedings and the said order dated 17.02.1992 was challenged by the respondent-plaintiff by filing a civil suit though he had already filed an appeal against the said punishment order before the higher authorities.

3. Learned counsel for the appellants further argues that the trial Court allowed the suit of the respondent-plaintiff on the ground that charges alleged against the respondent-plaintiff were not proved by the Department in the disciplinary proceedings by giving due reasons and hence, the punishment order dated 17.02.1992 was set aside.

4. Learned counsel for the appellants submits that similarly the lower Appellate Court also held that as the document dated 12.06.1991, on the basis of which the allegations were alleged against the respondent-plaintiff qua the unauthorized absence and use of abusive language has not been produced before the trial Court hence, the imposition of punishment was bad and the trial Court had rightly accepted the claim of the respondent-plaintiff qua the imposition of punishment.

5. Learned counsel for the appellants further submits that the Courts below passed the judgments/decrees by treating the suit to be an appeal against the order of punishment whereas, the only requirement which the trial Court and the lower Appellate Court was to ensure that proper procedure for conducting the disciplinary proceedings have been adopted or not. The sufficiency of the evidence so as to hold the respondent-plaintiff not guilty of the allegations could not have been gone into.

6. Learned counsel for the respondent-plaintiff, on the other hand, submits that the respondent-plaintiff was late on a particular day and all the allegations in the charge-sheet were the result of the altercation between the respondent-plaintiff and the Chief Medical Officer hence, once the competent Court of law has come to the conclusion that the documents to hold the respondent-plaintiff guilty have not been produced before the Court and the punishment imposed is bad, the same is liable to be upheld.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. In the present case, it is a conceded fact that after holding disciplinary proceedings against the respondent-plaintiff, the order of punishment was passed. The same was challenged by the respondent-plaintiff before the Civil Court. The jurisdiction of a Civil Court qua the challenge to an order of punishment is to be seen as to whether, due opportunity to defend has been given to the employee concerned or not and whether, the rules of natural justice have been violated while conducting the said disciplinary proceedings or not.

9. It may be noticed that the trial Court does not have the jurisdiction to re-evaluate the evidence which came on record in the departmental proceedings. The evidence which has come before the Department during the departmental proceedings, cannot be re-evaluated so as to decide the validity of the punishment/action taken by the Department. As per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.11196 of 2011 titled as State Bank of India vs. A.G.D. Reddy, decided on 24.08.2023***, the only jurisdiction is to ensure that proper procedure has been held or not. The relevant paragraph 35 of the said judgment is as under:-

“ 35. Shri Sanjay Kapur, learned counsel for the Bank relies on State Bank of India vs. Ram Lal Bhaskar and Another, (2011) 10 SCC 249. In that judgment the scope of judicial review of departmental proceedings was set out and the principle laid down in State of A.P. vs. S. Sree Rama Rao, AIR 1963 SC 1723, was reiterated, which reads as follows:- “This Court has held in State of A.P. and Others v. S. Sree Rama Rao (AIR 1963 SC 1723, para 7):

“7. ... The High Court is not constituted in a proceeding

under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."

13. Thus, in a proceeding under Article 226 of the Constitution, the High Court does not sit as an appellate authority over the findings of the disciplinary authority and so long as the findings of the disciplinary authority are supported by some evidence the High Court does not re-appreciate the evidence and come to a different and independent finding on the evidence. This position of law has been reiterated in several decisions by this Court which we need not refer to, and yet by the impugned judgment the High Court has reappreciated the evidence and arrived at the conclusion that the findings recorded by the enquiry officer are not substantiated by any material on record and the allegations leveled against the respondent no.1 do not constitute any misconduct and that the respondent no.1 was not guilty of any misconduct."

10. From the findings which have been recorded by the trial Court, which have been upheld by the lower Appellate Court, it is clear that the relief has been given to the respondent-plaintiff on the ground that the documents, which were the basis so as to hold the respondent-plaintiff guilty in the departmental proceedings, were not brought on record before the trial Court by the respondent-Department to prove that the order of punishment was valid. The said view is totally contrary to the judgment of

the Hon'ble Supreme Court of India as noticed hereinbefore as the trial Court as well as the lower Appellate Court acted as an Appellate Authority rather than adjudicating authority so as to ensure that the proper procedure to impose the punishment has been followed or not.

11. Keeping in view the above, the findings recorded by the Courts below are perverse to the settled principle of law noticed hereinbefore and cannot be accepted. Hence, the same are set aside and the suit filed by the respondent-plaintiff is dismissed.

12. The present regular second appeal is disposed of in above terms.

CM-3168-C-1996

As the main appeal has been disposed of, present application also stands disposed of.

February 16, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes