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

(223)

RSA-2447-1996

Date of decision:- 07.05.2024

The State of Punjab and another**... Appellants****Versus****Ajit Singh****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Amit Chaudhary, DAG, Punjab
for the appellants.

Respondent was proceeded against ex-parte by this Court vide
order dated 06.03.1997.

SUVIR SEHGAL, J. (ORAL)

1. Defendants are in second appeal before this Court challenging the concurrent finding of fact recorded by both the Courts below.
2. Pleaded case of the plaintiff-respondent, who was working as a Driver with the Punjab Roadways, is that by order dated 30.06.1989, punishment of stoppage of two increments with cumulative effect and forfeiture of balance salary for the suspension period, has been imposed in violation of the principles of natural justice and the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short "the Rules").
3. Upon notice, appellants-defendants have filed a written statement taking various preliminary objections. A stand has been taken by them that plaintiff-respondent was negligently driving a bus, which met with an accident and he caused loss to the Government. Plaintiff was proceeded against departmentally and on the basis of the findings recorded in the

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enquiry, penal order was passed. Plaintiff did not file any replication. Issues were framed and after the parties led evidence, the Trial Court by judgment dated 13.12.1993 decreed the suit and held that the punishment order is illegal. Plaintiff was found entitled to all the service benefits. Defendants remained unsuccessful in the first appeal, which was dismissed by learned Additional District Judge, Gurdaspur, vide judgment dated 02.03.1996, resulting in the institution of the present appeal.

4. I have heard the State counsel and considered his submissions, besides examining the record with his able assistance.

5. A perusal of the punishment order dated 30.06.1989 shows that two different punishments have been imposed on the plaintiff-respondent. On the one hand, two increments have been stopped with cumulative effect on the basis of the findings recorded by the enquiry officer and on the other hand, salary, beyond subsistence allowance, has been withheld. Record shows that no show cause notice was issued to the plaintiff-respondent for withholding of his salary. In the absence of a show cause notice, salary due to the plaintiff-respondent could not be withheld. Still further, it has been established that there has been a breach of the principles of natural justice, in as much as the plaintiff-respondent has not been given sufficient time to prepare his defence. He has not been afforded with an opportunity to take the assistance of his colleague.

6. The enquiry findings are also not sustainable. The witnesses produced by the appellants in their evidence in the enquiry proceedings have stated that the accident occurred as a stray dog came in front of the bus and



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in order to avoid hitting him, plaintiff-respondent tried to bring the bus to a halt, but it turned turtle. There was no material before the enquiry officer to come to the conclusion that the plaintiff-respondent was rash and negligent in driving. Furthermore, no criminal case was registered against him. A cumulative effect of all these established facts shows that the punishment order has been rightly set aside by both the Court below and the impugned judgments and decrees deserve to be upheld.

7. Finding no merit in the appeal, it is hereby dismissed with no order as to costs. Impugned judgments and decrees passed by both the Courts are affirmed.

07.05.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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