



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

203

RSA No. 2752 of 1996**DECIDED ON: 20th May, 2024**

State of Punjab and another

.....APPELLANT

VERSUS

Satish Kumar Thaman

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rohit Ahuja, Deputy Advocate General, Punjab.

Mr. Vivek Sharma, Advocate for respondent.

HARSIMRAN SINGH SETHI, J (ORAL)

In the present appeal, challenge is to the judgment and decree of the trial Court dated 19.04.1995, by which the suit filed by the respondent/plaintiff has been allowed by which, the punishment order dated 30.6.1993 by which five increments of the respondent/plaintiff were stopped with cumulative effect, has been set aside as well the order dated 13.05.1996 passed in appeal by the Lower Appellate Court by which the judgment and decree of trial Court has been upheld.

2. Learned counsel for the appellant-State submits that the trial Court has set aside the punishment order dated 30.6.1993 which order was passed after following due process of law envisaged to conduct departmental inquiry, only on the ground that the respondent/plaintiff was not given the assistance of an Advocate in the departmental proceedings to present his case and that the punishment order passed by the authority concerned was not detailed one.



3. Learned counsel for the appellant further submits that as per the judgment of the Supreme Court of India in ***Harinarayan Srivastav Versus United Commercial Bank, 1997 AIR (SC) 3658***, wherein it was held that even if the Presenting Officer is a law graduate, the denial of assistance of an Advocate to the delinquent officer cannot be treated as a violative of principle of natural justice.

4. Learned counsel for respondent/plaintiff argues that while passing order of punishment, no reasons were given hence, it is not clear as to what weighed with the Punishing Authority so as to pass the order of punishment, hence, the order of punishment being cryptic and non-speaking, has rightly been set aside by the Courts below so as to allow the suit filed by the respondent/plaintiff and to dismiss the appeal filed by the appellant/defendant.

5. Learned counsel for the appellant submits that where the impugned order of punishment has been passed in the departmental proceedings based upon the findings recorded by the Inquiry Officer, the Punishing Authority is not required to pass a speaking order hence, the order of punishment passed by the authority concerned is perfectly valid and legal and is in accordance with law but has wrongly been set aside by the trial Court while allowing the suit filed by the respondent/plaintiff, which judgment has also been upheld by the Lower Appellate Court without appreciating the facts and evidence on record.

6. I have heard learned counsel for parties and have gone through the record of the case.

7. The first argument which has been raised by learned counsel for appellant is that the trial Court as well as the lower Appellate Court



have set aside the disciplinary proceedings held against the respondent/plaintiff on the ground that respondent/plaintiff was not allowed the assistance of an Advocate. In this regard, reliance is being placed upon the judgment in ***Harinarayan Srivastav's case (supra)***. The relevant paragraphs No.3, 4 and 5 of the said judgment is as under:

“3. Learned counsel for the petitioner contends that since the chargesheet has already been filed and criminal trial is pending, any enquiry conducted against the petitioner himself or any of the officer, as notified in para 19.12 of the bi-partite settlement, would prejudicially affect the petitioner's case and therefore, the denial of the assistance of an advocate is violative of the principles of natural justice. we find no force in the contention.

4. As per the Rule 19.12 of the bi-partite settlement, the permission to defend himself with the assistance of the advocate is one of the option to be given by the Bank. We have perused the chargesheet in the enquiry now sought to be proceeded against the petitioner .

5. The allegations are very simple and they are not complicated. Under these circumstances, we do not think that the failure to permit the petitioner to engage an advocate is violative of the principles of the natural justice.”

8. The said judgment is applicable squarely on the facts and circumstances of the present case where the Presenting Officer was only a law graduate and the respondent/plaintiff was seeking the assistance of an Advocate, which plea has been accepted by both the Courts below so as to accept the claim of the respondent-plaintiff. The judgment and decree of the Courts below are contrary to the judgment of the Supreme Court of India in ***Harinarayan Srivastav's case (supra)***.

9. Qua the argument raised by the learned counsel for the respondent/plaintiff that the Punishing Authority has not passed detailed order, it may be noticed that once in the departmental proceedings all the facts and evidence have come on record including the stand of the



have been given by Inquiry Officer while deciding the allegations based upon the evidence which has come on record, the Punishing Authority is not required to pass a detailed order once again discussing the evidence which has come on record. The said view is supported by the decision of the Co-ordinate Bench of this Court in ***RSA No.3065 of 1984 decided on 5.5.1989 titled as Punjab State Electricity Board, Patiala vs. Gurpal Singh Bhamra***. Relevant paragraph No.11 reads as under:

- *‘Turning now to the impugned order itself and the challenge to it on the ground that it was not a speaking order, the law is well settled as held by the Full Bench of this Court in The State of Haryana and others v. Shri Ramchander, 1976(2) SLR 690 that where the disciplinary authority agrees with the findings of the Enquiry Officer, it cannot be said as a matter of law that the disciplinary authority bound to record reasons in every case. This is thus, no ground to attribute invalidity to the impugned order.’*

10. Keeping in view the above mentioned facts and principle of law, the judgment and decrees of Courts below are perverse to the facts/evidence on record as well as the settled principle of law noticed hereinabove.

11. Keeping in view the said position, the judgments of the trial Court as well as the lower Appellate Court cannot be sustained and are accordingly set aside.

12. No other argument has been raised.

13. The present appeal is allowed in the above mentioned terms and the suit filed by the respondent/plaintiff is dismissed.

(**HARSIMRAN SINGH SETHI**)
JUDGE

20th May, 2024
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