

RSA-3025-1996

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

RSA-3025-1996

Date of decision:- 04.04.2024

Pepsu Road Transport Corporation, Patiala

... Appellant

Versus

Harbans Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Harsh Chopra, Advocate for the appellant.

Mr. Ashok Kumar Khungar, Advocate for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendant is in second appeal before this Court challenging the judgment and decree dated 10.08.1996 passed by the First Appellate Court.
2. Brief facts may be noticed. Plaintiff-respondent, who was employed as a Driver, was issued a charge-sheet dated 27.12.1990 on the allegation of misbehavior with his colleagues and causing loss of ₹1482/- to the department. It was alleged that he had behaved in an indisciplined manner. Claiming that two charge-sheets have been issued to him on the same cause and he could not be punished, plaintiff-respondent filed a suit for declaration to the effect that order dated 05.05.1992, whereby two increments were stopped with cumulative effect, be set aside and he be granted allowances for the suspension period.
3. Upon notice, suit was contested by the defendants by filing a joint written statement, wherein various preliminary objections were taken. It was submitted that a proper enquiry under the Pepsu Road Transport

Corporation (Conditions of Service and Service Regulations), 1981 was held and the plaintiff-respondent was given full opportunity to defend himself. It has been further submitted on the basis of the enquiry report, a show cause notice was issued to him and after hearing him, punishment order was passed. Plaintiff-respondent re-asserted his claim by filing a replication. On the basis of the pleadings of the parties, issues were framed and after they led evidence, Trial Court by judgment and decree dated 23.08.1993 dismissed the suit. Appeal, preferred by the plaintiff-appellant, was accepted by the learned Additional District Judge, Faridkot and the suit was decreed, as prayed for, in the plaint.

4. I have heard counsel for the parties and considered their respective submissions as well as examined the record with their able assistance.

5. First Appellate Court has recorded a finding that after the enquiry report was submitted, its copy was never supplied to the plaintiff-respondent along with the show cause notice, whereby punishment of stoppage of three increments with cumulative effected was proposed. This Court has examined the record. A perusal of the notings, which form a part of the record, show that upon examining the enquiry report, punishing authority proposed issuance of a show cause notice for stoppage of three annual increments. There is nothing to show that the copy of the enquiry report was ever sent to the plaintiff-respondent. As the plaintiff-respondent was not supplied with the material, which was adverse to him, he did not get a fair opportunity to rebut it. This Court is, therefore, of the view that the First Appellate Court is right in coming to the conclusion that the

punishment order has been passed in breach of the principles of natural justice. This Court does not find any reason to interfere with the findings recorded by the First Appellate Court, which deserve to be upheld.

6. At this stage, counsel for the defendant-appellant has submitted that even if the finding of the First Appellate Court is accepted to be correct, a chance deserves to be given to the appellant to supply a copy of the enquiry report to the plaintiff-respondent, so that the proceeding can be taken to its logical conclusion.

7. The submission made by the counsel for the defendant-appellant deserves to be noticed and rejected. Litigation has remained pending for the last more than three decades. The disciplinary proceeding was initiated against the plaintiff-respondent in the year 1990. During the course of the pendency of the litigation, plaintiff-respondent must have retired from service on attaining the age of superannuation. The request of the counsel for the defendant-appellant is, therefore, declined.

8. In view of the above discussion, this Court finds no merit in the appeal, which is hereby dismissed, with no order as to costs.

04.04.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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