

225 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 27.02.2024

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

None for the respondent.

1. Defendants-appellants are in Second Appeal before this Court challenging the judgments and decrees passed by both the Courts below.
2. Brief facts may be noticed.
3. Gurdial Singh, plaintiff-respondent was working as Conductor with the Punjab Roadways. During his service tenure, some orders were passed imposing various punishments on the allegation that he had not collected fares from the passengers, who were travelling without tickets. He filed a suit for declaration to the effect that the following orders passed by the defendant-appellant No.2 are illegal, null and void and also claimed consequential relief:-

iv) Order No.2063/ST/SM dt.9.10.81 reduced to time scale fourteen years and forfeiture of balance suspension pay.

v) Order No.4429-31/TA dated 16.3.89 stoppage of two increments without commulative effect.

vi) Order No.6546/ST/GM dt.18.8.89 stoppage of two increments without commulative effect.

4. Upon notice, suit was contested by the defendants by filing written statement wherein various preliminary objections, including that of limitation, were taken. It was submitted by the defendants that punishment orders have been passed after following the principles of natural justice. No replication was filed. Issues were framed and during the course of evidence, inquiry file Exhibit PA was produced and no ocular evidence was led by either of the parties. After trial, vide judgement and decree dated 09.08.1991, the trial Court accepted the suit and set aside all the said orders with liberty to the defendants to proceed afresh in accordance with law.

5. In first appeal preferred by the defendants, learned Additional District Judge, Gurdaspur, vide judgment dated 17.08.1995 found that challenge to orders mentioned at serial Nos. (i) to (iv), above, was barred by limitation and accepted the appeal qua the said orders. Insofar as orders mentioned at serial Nos. (v) and (vi), above, are concerned, the First Appellate Court dismissed the appeal of the defendants. In this backdrop, the defendants are before this Court.

6. I have heard the learned State counsel and examined the trial Court record with his able assistance.

7. A perusal of the record shows that the defendants had initiated proceedings for imposition of major penalties and had served charge-sheet dated 28.03.1989 (at pages 151 to 177 of the Trial Court Record-TCR) and charge-sheet dated 27.04.1979 (at pages 219 to 222 of the TCR). After the

were initiated for imposing major penalty under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 for causing monetary loss to the Government. However, without concluding the proceedings, by show cause notices dated 12.05.1989 and 28.03.1989 (at pages 189 and 247 of the TCR), punishing authority proposed imposition of minor penalty. Finding the reply submitted by plaintiff-respondent to be unsatisfactory, orders mentioned at serial Nos. (v) and (vi), above, were passed. The procedure adopted by the defendants-appellants is in violation of the Punjab Civil Services (Punishment and Appeal) Rules, 1970.

8. In *State of Punjab and another Vs. Chodhri Manphul Singh, 1985 SCC Online P&H 773*, a Coordinate Bench of this Court has held as under:-

“6. It is the common case of the parties that an enquiry was contemplated and conducted under sub-rule (3) to rule (23) of rule 8. It may be that in order to inflict minor punishment no enquiry as such may be conducted or is necessary but once, after issuing the charge-sheet under rule 8, the enquiry is held then minor punishment may be imposed as contemplated in clause (3) of rule 9 if the punishing authority so chooses as the time of awarding the punishment instead of the major punishment. But at the same time once the proceeding has been initiated under rule 8, then for inflicting a minor punishment, the procedure as required under rule 8 has to be followed for awarding a minor punishment under rule 9(3).”

9. In view of the above settled legal position, there is no scope for interference in the judgment and decree passed by the First Appellate Court. In *Chodhri Manphul Singh's case (supra)*, this Court had granted liberty to the State to take fresh action against the delinquent employee in accordance with the rules, but this Court is of the view that this permission does not deserve to be granted in the present case for the reason that the litigation has

interregnum, plaintiff-respondent may have probably retired from service on attaining the age of superannuation. Still further it may be noticed that while admitted this appeal on 27.01.1998, no interim order was passed. Consequently, the monetary benefits may have been disbursed to the plaintiff-respondent.

10. Finding no merit in the appeal, it is hereby dismissed.

27.02.2024
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(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No