

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

RSA-769-1996 (O&M)
Date of Decision :15.04.2024

Om Parkash (now deceased) through LRs

..Appellant

Versus

Haryana State Agricultural Marketing Board

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Hooda, Advocate for the appellant.

None for respondent.

* * *

Harsimran Singh Sethi, J. (Oral)

1. Present regular second appeal has been filed by the appellant-plaintiff challenging the judgment and decree of the lower Appellate Court dated 18.11.1995 by which, judgment and decree of the trial Court dated 18.12.1990 has been set aside and the suit filed by the appellant-plaintiff has been dismissed.

2. It may be noticed that appellant-plaintiff was suspended by the Chief Administrator of the respondent-Board vide order dated 21.02.1984. In the said order, it was mentioned that plaintiff-appellant will be entitled for subsistence allowance and further that rate of subsistence allowance will be increased in case, suspension period exceeds the period of six months. The said order of suspension dated 21.02.1984 was challenged by the appellant-plaintiff by way of filing a civil suit on the ground that for a period

of more than one and a half year of order of suspension, no disciplinary proceedings were initiated against the appellant-plaintiff. Further prayer was made for the grant of full salary during the period of suspension.

3. Keeping in view the evidence and facts which had come on record, suit filed by the appellant-plaintiff was decreed by the trial Court vide order dated 18.12.1990 holding that order of suspension passed by the Chief Administrator was bad as only respondent-Board was competent to pass the order of suspension dated 21.02.1984.

4. Feeling aggrieved against the said judgment and decree of the trial Court dated 18.12.1990, respondent-Board filed an appeal before the lower Appellate Court, which appeal was allowed by the lower Appellate Court vide judgment and decree dated 18.11.1995 by setting aside the judgment and decree of the trial Court dated 18.12.1990 holding that Chief Administrator of the respondent-Board was fully competent to pass an order of suspension against the appellant-plaintiff keeping in view the Notification dated 27.10.1980 wherein, Chief Administrator of Haryana State Agriculture Marketing Board described as appointing authority of the Assistant Secretaries and suspension order of the plaintiff-appellant was passed by the said authority only. With regard to the claim of the appellant-plaintiff for the grant of full salary during suspension period once, it has been held that in the order of suspension, it was mentioned that appellant-plaintiff will be entitled for a particular amount during suspension period, hence, full salary cannot be claimed by appellant-plaintiff. Said judgment and decree of the lower Appellate Court dated 18.11.1995 is under challenge in this present regular second appeal.

5. Learned counsel for the appellant-plaintiff submits that well reasoned judgment of the trial Court has been set aside by the lower Appellate Court vide judgment and decree dated 18.11.1995, which is perverse and is liable to be set aside.

6. I have heard learned counsel for the appellant and have gone through the record with his able assistance.

7. Learned counsel for the appellant-plaintiff though, argued that judgment and decree of the lower Appellate Court dated 18.11.1995 is perverse but no such perversity has been pointed out before this Court. The findings have been recorded by the lower Appellate Court that in the Notification dated 27.10.1980, the Chief Administrator of the Haryana State Agricultural Marketing Board was described as appointing authority of the post of Assistant secretaries of the Marketing Committee and order suspending the appellant-plaintiff was passed by the said authority only hence, said finding of the lower Appellate Court needs no interference as the same has gone un rebutted. Once, under the rules framed, Chief Administrator of the respondent-Board is the appointing authority and it is a settled principle of law that appointing authority has full right to suspend the employee and in the present case, only the said jurisdiction has been exercised by the Chief Administrator hence, the same cannot be treated to be bad in law.

8. With regard to the claim of the appellate-plaintiff for the grant of full salary during suspension period, it was already mentioned in the order of suspension that as to what amount will be paid to the appellant-plaintiff for the period of first six months and, thereafter, in case, suspension

period of the appellant-plaintiff continued. Even as per the settled principle of law, full salary cannot be claimed for suspension period unless and until in the departmental proceedings, the said employee gets exoneration. Nothing has been pointed out by the learned counsel for the appellant-plaintiff that in the departmental proceedings, the appellant-plaintiff was exonerated of the allegations of embezzlement.

9. Keeping in view the facts and circumstances recorded hereinabove as no perversity in the judgment and decree of the lower Appellate Court has been pointed out by learned counsel for the appellant-plaintiff, present regular second appeal stands dismissed.

10. Civil miscellaneous application pending, if any, is also disposed of.

April 15, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No