



RSA-3524-1997 (O&M)

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

(203)

RSA-3524-1997 (O&M)

Date of decision:- 02.07.2024

The Punjab State Cooperative Supply and Marketing Federation Ltd.

... Appellant

Versus

Amrik Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amar Vivek Aggarwal, Advocate and
Ms. Richa Sharma, Advocate for the appellant.

Mr. G.S.Bhatia, Advocate and
Mr. Jasmeet Singh Bhatia, Advocate for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendants-appellants are in second appeal before this Court assailing the concurrent findings recorded by both the Courts below.
2. Pleaded case of the plaintiff-respondent is that he joined service with the defendant on 06.10.1969 as a Field Inspector and his cadre was later on changed to Field Officer. Because of an allegation of shortage of wheat for the year 1982-83, he was placed under suspension on 16.08.1983 by the Managing Director of the Punjab State Cooperative Supply & Marketing Federation (for brevity referred to as “the defendants/appellants”). A criminal case was registered, but after investigation, no action was taken. A charge-sheet dated 07.02.1984 was issued to which plaintiff submitted a reply, but the defendants appointed an

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enquiry officer, who submitted a report holding that the charges against the plaintiff stood proved. By impugned order dated 18.12.1987, plaintiff was dismissed from service and it was ordered that he will not get any monetary benefit over and above the subsistence allowance already paid to him during suspension.

3. Upon notice, suit was contested by the defendants taking various pleas, including that of the jurisdiction of the Civil Court. It was submitted that when the reply to the show cause notice was not found to be satisfactory, an enquiry officer was appointed and on the basis of the enquiry report, a show cause notice was issued to the plaintiff and he was given an opportunity of hearing before the impugned dismissal order was passed. Plaintiff filed a replication reasserting the claim. Trial Court framed issues on the basis of the pleadings of the parties, who led evidence in support of their respective case. After hearing, Trial Court by judgment dated 14.05.1991 decreed the suit. Defendants remained unsuccessful before the Lower Appellate Court and first appeal filed by them was dismissed by the Learned Additional District Judge, Chandigarh by judgment dated 31.03.1997, resulting in the institution of the present appeal.

4. Counsel for the appellant has urged that the Courts have erred in coming to the conclusion that the Additional Managing Director was not competent to pass the dismissal order. By referring to Rule 1.6 of the Punjab State Supply & Marketing Cooperative Services (Common Cadre) Rules, 1967 (for short “the Rules”), he contends that the Additional

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Managing Director was the delegatee of the Managing Director, who was exercising the powers of Administrative Committee, which was not in existence. On the basis of documents, Annexures P-1 to P-3, which have been filed with application (CM-5550-C-1999) for permission to lead additional evidence, he submits that the pay scale of the plaintiff was Rs.570-1080 and the Managing Director was the officer authorized to take disciplinary action against him and that power had been duly delegated by him to the Additional Managing Director. He asserts that this application deserves to be allowed and the appellant be granted permission to lead additional evidence in support of its case. It is his argument that as no notice under Section 79 of the Punjab Cooperative Societies Act, 1961 (for short “the Act”) was served, the suit was not maintainable. In the alternative, he has contended that the Civil Court did not have the jurisdiction to entertain the suit in view of Section 82 of the Act and that both these arguments have not been considered by the Lower Appellate Court.

5. While opposing the prayer made in the application as well as in the appeal, counsel for the plaintiff-respondent asserts that the appellant had availed sufficient opportunities to lead the evidence, but it had failed to exercise due care and diligence, and cannot be permitted to lead the evidence at this stage. He has supported the judgments passed by the Courts below.

6. I have heard counsel for the parties and considered their respective submissions.

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7. It cannot be disputed that the plaintiff was working as a Field Officer. No document was brought on the record by the defendants before the Courts below to prove his scale of pay. Perusal of his appointment order dated 20.09.1969, Annexure P-1, resolutions of the Board, Annexures P-2 and P-3, respectively, show that the pay scale of the Field Officer have been determined at Rs.570-1080/-, which stood revised to Rs.600-1120/-. These crucial documents were not before the Appellate Court, which resulted in the recording of the finding that the defendants have failed to establish the pay scale of the plaintiff to show that the Additional Managing Director under the delegated power was competent to inflict the punishment of dismissal. This Court is, therefore, of the view that the documents, Annexures P-1 to P-3, are, therefore, necessary for the just decision of the case on merits.

8. In *Sanjay Kumar Singh Versus State of Jharkhand, (2022) 7 SCC 247*, Supreme Court has observed that where additional evidence sought to be adduced, removes the cloud of doubt over the case and the evidence has a direct and important bearing on the main issue in the suit, interest of justice clearly renders it imperative that it may be allowed to be permitted on the record. Supreme Court held that the question is not whether the party had an opportunity for adducing such evidence at an earlier stage, but whether or not the appellate court requires the evidence sought to be produced to enable it to pronounce judgment or for any other substantial cause. An analysis of the documents, Annexures P-1 to P-3, as has been done above, clearly show that the documents sought to be brought



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on the record as additional evidence have a direct bearing on the determination of the controversy before the Courts and are necessarily required to be gone into before adjudicating the matter on merits.

9. For the foregoing reasons, application (CM-5550-C-1999) is allowed and the plaintiff-appellant is permitted to produce documents, Annexures P-1 to P-3, by way of additional evidence. Plaintiff-appellant shall also be at liberty to produce any other material, which has a bearing on the matter by moving an appropriate application before the Lower Appellate Court.

10. Consequently, the impugned judgment and decree passed by the First Appellate Court is set aside and the matter is remitted to it for decision afresh in accordance with law. It is clarified that anything said hereinabove shall not have any impact upon the decision of the first appeal on merits.

11. Appeal is disposed of.

12. Parties are directed to appear before the First Appellate Court on 16.09.2024 for further proceedings in accordance with law.

13. Pending application, if any, stands disposed of.

(SUVIR SEHGAL)
JUDGE

02.07.2024
Kamal

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