

RSA-1066-1998

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(224)

RSA-1066-1998

Date of decision:- 01.05.2024

State of Punjab and others

... Appellants

Versus

Amril Lal Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Anil Bansal, DAG, Punjab for the appellants.

Mr. Ankush Sharma, Advocate for
Mr. M.K.Dogra, Advocate for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendants-appellants are in second appeal before this Court challenging the concurrent finding recorded by both the Courts below.
2. Pleaded case of plaintiff-respondent is that when he was serving as an Inspector, Food & Supplies at Bareta Centre, District Bathinda, he was served with a charge-sheet dated 01.03.1989 alleging that he was responsible for shortage of stock. Plaintiff refuted the allegations by submitting his reply, but an enquiry officer was appointed, who submitted report dated 03.10.1990 holding that the charges stood proved. Without complying with the Punjab Civil Services (Punishment and Appeal) Rules, 1970 and the principles of natural justice, order dated 14.03.1991 was passed stopping one increment with cumulative effect alongwith penalty of recovery of Rs.46,444.57/-. Plaintiff filed a suit for declaration to the effect that the punishment order is illegal and for permanent injunction restraining defendants from implementing it.

3. Upon notice, suit was contested by the defendants by filing a written statement averring that punishment was imposed on the basis of the findings of the enquiry officer. It was further submitted that the plaintiff had admitted the charges before the enquiry officer. Plaintiff filed a replication controverting the stand taken in the written statement. Issues were framed on the basis of the pleadings of the parties and Trial Court by judgment dated 04.09.1993 decreed the suit. Defendants remained unsuccessful before the First Appellate Court and their appeal was dismissed by judgment dated 19.09.1997, resulting in the institution of the present second appeal.

4. By placing reliance upon letter dated 24.07.1990, Ex.D-3, sent by the plaintiff to the enquiry officer, State counsel has urged that the plaintiff had admitted the allegations levelled against him and he cannot be permitted to wriggle out of his admission. He submits that the disciplinary proceedings had been conducted and the punishment order had been passed in accordance with the procedure prescribed under the Rules.

5. Counsel for the respondent, on the other hand, has supported the impugned judgments and decrees.

6. I have heard counsel for the parties and considered their respective submissions, besides examining the record with their able assistance.

7. Charge-sheet, Ex.P-1, was served on the plaintiff on account of shortage of gunny bales and stock articles. In his reply, plaintiff had specifically denied the allegations levelled against him. During the enquiry proceedings, he addressed communication, Ex.D-3, to the enquiry officer, a

perusal of which shows that he never admitted the allegations. Rather, he informed the enquiry officer that the charge of the stock was not with the plaintiff, but with one, Balbir Singh, and no document was ever produced during the course of the enquiry to establish that plaintiff had the custody of the stock. He had stated that Joginder Singh claims that three bales were short when charge was given to him and in case it is found that plaintiff is responsible for the loss, he is prepared to deposit the price of the bales as per his share. This communication clearly shows that there was no admission and rather the stand taken by the plaintiff is that he will deposit his proportionate share in case it is proved that he was responsible. Therefore, there is no force in the argument addressed by the State counsel.

8. An examination of the enquiry record shows that the enquiry officer had permitted the presenting officer to examine a witness, namely, Harinder Singh, whose name did not even figure in the list of witnesses supplied to the plaintiff alongwith the charge-sheet. Record also shows that despite a specific request made by the plaintiff, he was not given permission to seek the assistance of a colleague. In his evidence, plaintiff specifically deposed that he was not supplied with a copy of the enquiry report, nor was he issued a show cause notice or afforded a hearing before passing of the impugned punishment order. The onus to prove issue No.3 was on the plaintiff, which stood discharged with his statement. Further, the defendants have not been able to give a rebuttal to his evidence. In his cross-examination, Dalip Singh, DFO, DW-1, has supported the case of the plaintiff. It, therefore, stands established that the defendants have taken penal action against the plaintiff in breach of principles of natural justice

and impugned punishment order is, therefore, not sustainable. There is no reason to interfere with the concurrent finding of fact recorded by both the Courts below and the judgments and decrees under challenge deserve to be affirmed.

9. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.

01.05.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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