

Neutral Citation No. 2024:PHHC:009457

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

218

RSA-2151-1998

Date of Decision:24.01.2024

State of Punjab

... Appellant

Vs

Rajinder Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vikas Arora, AAG, Punjab.

None for the respondent.

SUVIR SEHGAL, J.(ORAL)

1. Defendant-State is in second appeal before this Court challenging the concurrent finding of fact recorded by both the courts below.

2. Rajinder Kumar, plaintiff-respondent was working as a Conductor with the Punjab Roadways when he was chargesheeted vide memo dated 26.03.1991 on the allegation of failure to safe-keep Government tickets, negligence in performance of duties and failure to inform office regarding loss of ticket box as well as for causing loss of Rs.10,391.50/-. He has averred that the inquiry was conducted in breach of principles of natural justice and mandatory provisions of Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short 'the Rules'). After the receipt of inquiry report, a show cause notice dated 20.02.1992 was issued proposing recovery of the said amount and without considering his explanation, order dated 17.07.1992 has been passed. He challenged the punitive action by filing a suit for

declaration and permanent injunction.

3. Upon notice, State -defendant appeared and filed a written statement taking various objections including the maintainability of the suit as well as the jurisdiction of the Court to try it. Factual averments were admitted though it was submitted that the procedure had been duly complied with before passing the recovery order.

4. After issues were framed and parties lead their respective evidence, trial Court by judgment and decree dated 08.02.1994 decreed the suit. State-defendant remained unsuccessful in the first appeal which was dismissed on 08.01.1998.

5. I have heard State counsel and examined the record with his able assistance.

6. Both the Courts below have returned a finding that the State has failed to prove the loss caused to the Government. Even during the course of arguments before this Court, State counsel could not point out any ocular or documentary evidence to support the stand. There is no evidence to show that the tickets had actually been sold by the plaintiff-respondent and the amount had been embezzled. In the absence of proof of any economic loss to the Government, recovery order could not have been passed.

7. In view of the above discussion, this court does not find any infirmity or illegality in the judgments passed by the courts below. Finding no merits in the appeal, same is dismissed.

24.01.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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