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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2420-1998
Date of decision:-31.05.2024

Punjab State and another

...Appellants

Versus

Sh.Mukhtiar Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Ms.Amrita Garg, AAG, Punjab
for the appellants.

Ms.Perna Malhotra, Advocate for
Mr.Prateek Mahajan, Advocate
for the respondent.

SUVIR SEHGAL, J.(ORAL)

1. Defendants are in second appeal before this Court challenging the concurrent finding of fact recorded by both the Courts below.

2. Pleaded case of the plaintiff – respondent, who was working as bus conductor, is that on 06.04.1984, when he was on duty, a checking was conducted by Inspectors Panna Lal and Jugal Kishore and

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they found that the plaintiff had not issued tickets to some passengers. A report was submitted and departmental inquiry was conducted, which culminated in the passing of punishment order dated 30.11.1984 whereby plaintiff's pay scale was reduced and his pay for the suspension period was forfeited. The plaintiff filed a suit for declaration impugning the said order and another punishment order dated 04.09.1986 whereby he has been accused of embezzling Rs.11.20 on account of his failure to issue bus tickets.

3. Upon notice, suit was contested by the defendants. After issues were framed, parties led evidence and were heard, trial Court by judgment dated 24.12.1992, decreed the suit and declared both the punishment orders as illegal and void. Plaintiff was found entitled to all the service benefits including pay and allowances. Appeal filed by the defendants was dismissed by learned Additional District Judge, Gurdaspur by judgment dated 12.08.1997, resulting in the institution of the present second appeal by the defendants.

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

5. A perusal of the judgment passed by the learned First Appellate Court shows that the Court has considered the arguments and the submissions of the State qua the first punishment order i.e. order dated 30.11.1984. However, despite a specific challenge to the finding recorded by the Trial Court qua the second punishment order dated 04.09.1986, the learned Additional District Judge has not dealt with it. The second punishment order has skipped the notice of the First



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Appellate Court. Additionally, learned State counsel has relied upon the judgments of this Court passed in *Kirpal Singh Versus Presiding Officer, Labour Court, U.T. Chandigarh, 1993 (3) SCT 36* and *Jarnail Singh Versus Director State Transport Punjab, Chandigarh and others, 2009 (1) SCT 322* to urge that the First Appellate Court has erred in coming to the conclusion that in the absence of the examination of the ticketless passengers, the testimony of the checking staff is inadmissible.

6. Be that it as it may, without examining the appeal on merits, since the First Appellate Court has not dealt with the second punishment order, this Court is of the view that the matter deserves to be remitted for re-determination on merits.

7. Accordingly, appeal is allowed. Judgment and decree passed by the First Appellate Court is set aside. Matter is remanded to the Court of learned District Judge, Gurdaspur for re-adjudication on merits after hearing the parties. Learned District Judge, Gurdaspur may hear the appeal himself or assign it to any other court of competent jurisdiction.

8. Parties are directed to appear before the learned District Judge, Gurdaspur on 17.07.2024 at 10:00 A.M.

(SUVIR SEHGAL)
JUDGE

31.05.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No