



RSA-81-1998 (O&M)

-1-

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

(225)

RSA-81-1998 (O&M)

Date of decision:- 07.05.2024

Punjab State Electricity Board and others

... Appellants

Versus

Satnam Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jasraj Singh, Advocate
for the appellants.

None for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendants-appellants have approached this Court by way of this appeal challenging the judgment and decree passed by the Lower Appellate Court.

2. Plead case of Satnam Singh, plaintiff-respondent, is that he was working as J.E.-II when a charge sheet dated 10.09.1990, Ex.P-1, was served upon him leveling allegation of shortage of material and causing financial loss to the defendants. He submitted a reply, but without considering his response or affording him with an opportunity of hearing, defendants passed order dated 07.07.1991 directing recovery of Rs.66,769.85/-. Plaintiff filed a civil suit for declaration challenging the order, but during its pendency, the defendants withdrew the order and suit was dismissed by the Trial Court by judgment and decree dated 02.06.1994,

**RSA-81-1998 (O&M)****-2-**

Ex.D-1. In the meantime, another order dated 25.03.1994, Ex.P-3, was passed for recovery of Rs.59,260.55/- and stopping one increment without cumulative effect. Plaintiff challenged this order by filing a suit for declaration and claimed consequential relief.

3. Upon being served, defendants filed a written statement taking various preliminary objections. It was submitted that order dated 25.03.1994, Ex.P-3, was passed pursuant to show cause notice dated 03.09.1990, Ex.P-1 and the plaintiff was afforded ample opportunity to inspect the record. A stand has been taken that the order has been passed in accordance with law and following the procedure laid down in the Punjab State Electricity Board Employees (Punishment and Appeal) Regulations, 1971 (for short “the Regulations”). Replication was filed by the plaintiff and issues were framed from the pleadings of the parties. After evidence was led, Trial Court by judgment and decree dated 24.08.1995 dismissed the suit. Plaintiff was successful in the first appeal, which was accepted by the learned District Judge, Hoshiarpur by judgment dated 19.08.1997, whereby the judgment and decree passed by the Trial Court was set aside and the suit was decreed. Liberty was granted to the defendants to pass a fresh order after conducting a regular enquiry, if so advised.

4. The defendants are challenging the judgment and decree passed by the First Appellate Court.

5. Counsel representing the appellants has urged that the plaintiff was served with a show cause notice, Ex.P-1, under Rule 10 of the Regulations and neither a regular enquiry was proposed nor required to be held for imposing a minor penalty. He asserts that the First Appellate Court

**RSA-81-1998 (O&M)****-3-**

has fallen in error as it failed to appreciate that proceedings for imposition of a major penalty were never initiated.

6. I have heard the counsel for the appellants and considering his submissions as well as examining the record with his able assistance.

7. Regulation 10 (1) of the Regulations, which is relevant for the adjudication of the present appeal, deserves to be noticed and is reproduced hereunder:-

“10. (1) Subject to the provision of Regulation 8(5) (a) and sub-regulation (3) of Regulation 9, no order imposing on an employee any of the penalties specified in clauses (i) to (iv) of Regulation 5 shall be made except after:-

(a) informing the employee in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an enquiry in the manner laid down in sub-regulations (3) to (24) of regulation 8, in every case in which the punishing authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any submitted by the employee under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each allegation.”



RSA-81-1998 (O&M)

-4-

8. Sub-Rule (2) of Regulation 10 (1) of the above reproduced Regulations clearly stipulates that a regular enquiry can be held in the manner provided under the Regulations in every case where the punishing authority forms an opinion that holding such an enquiry is necessary before imposing any minor penalty upon the delinquent employee.

9. An examination of the notings, Ex.D-3, shows that the authorities had taken a conscious decision to hold an enquiry into the allegations levelled against the plaintiff. For this purpose, he was served with a charge-sheet, Ex.P-1, which contains the Articles of charge, imputations, list of witnesses and other documents sought to be relied upon by the disciplinary authority during the course of the proposed departmental proceedings. The plaintiff submitted his reply to the charge-sheet, but without holding a regular enquiry, penal order dated 25.03.1994, Ex.P-3, was passed. Still further, in response to the previous suit filed by the plaintiff, the defendants had taken a specific stand that Ex.P-1 is a charge-sheet, which has been issued to him regarding shortage of material etc. against major works done under his supervision and recovery order dated 07.07.1991, which was later withdrawn, has been tentatively passed, subject to the final outcome of the disciplinary proceedings. The defendants have, however, in their response to the present suit made a volte-face, which cannot be permitted.

10. In *State of Punjab and another Versus Chodhri Manphul Singh, 1985 SCC Online Punjab and Haryana 773*, a Co-ordinate Bench of this Court has held as under:-

“6. It is common case of the parties that an enquiry was contemplated and conducted under Sub-Rule



(3) to Rule (23) of Rule 8. It may be that in order to inflict minor punishment no enquiry as such may be conducted or is necessary but once, after issuing charge-sheet under Rule 8, the enquiry is held then minor punishment may be imposed as contemplated in Clause (3) of Rule 9 if the punishing authority so chooses at the time of awarding the punishment instead of the major punishment. But at the same time once the proceeding has been initiated under Rule 8, then for inflicting a minor punishment, the procedure as required under Rule 8 has to be followed for awarding a minor punishment under Rule 9 (3)...."

11. These observations have been made by this Court while interpreting the Punjab Civil Services (Punishment and Appeal) Rules, 1970. In view of this settled legal position, there is no scope for interference in the judgment and decree passed by the First Appellate Court, which is affirmed.
12. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.
13. Pending application, if any, stands disposed of.

(SUVIR SEHGAL)
JUDGE

07.05.2024
kamal

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