



**RSA-3805-1999 &
RSA-330-2000**

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

227-2 cases

1.

RSA-3805-1999

Date of decision:04.07.2024

Pepsu Road Transport Corporation and another

...Appellants

Versus

Bir Singh (since deceased) through LRs and another

...Respondents

2.

RSA-330-2000

Bir Singh (deceased) son of Phagan Singh now represented through his LRs
...Appellant

Versus

Pepsu Road Transport Corporation and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Anil Sharma, Advocate
for the appellant in RSA-3805-1999 and
for the respondent in RSA-330-2000.

Mr. Jai Bhagwan, Advocate
for the appellant in RSA-330-2000 and
for respondent No.1 in RSA-3805-1999.

SUVIR SEHGAL, J.

1. This order shall dispose of both the above-noted appeals as they arise out of the same civil suit.

2. For the sake of convenience, factual position is being taken from RSA-3805-1999.



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3. Defendants-appellants are in second appeal assailing the judgment and decree dated 02.06.1999 passed by the learned Additional District Judge, Patiala.

4. Plead case of plaintiff-respondent No.1 is that he was appointed as a driver with the defendants in the year 1964. He underwent an eye surgery and could not attend duty for about 20 days. When he approached the defendants for re-joining, he was not permitted to do so. He was charge-sheeted on three counts, firstly on account of absence from duty from 13.06.1990 onwards; secondly, for not taking interest in the services of the Pepsu Road Transport Corporation (for short "Corporation") and thirdly for acts subversive of office discipline. After he submitted reply to the show cause notice, an Inquiry Officer was appointed and vide his report dated 19.12.1990, found him guilty of the charges. Vide order dated 22.07.1991, Ex.P-3, plaintiff was dismissed from service. He filed an appeal, which was rejected on 22.01.1992, Ex.D-4. Challenging both the orders, he filed a civil suit for declaration to the effect that they are illegal, null and void and sought consequential relief.

5. Upon notice, suit was contested by the defendants by submitting that there were many complaints against the plaintiff regarding his work and conduct. He had absented himself from duty from 13.06.1990 without getting the leave sanctioned and never approached the authorities for re-joining. After the enquiry report was received, two notices were issued to him for personal hearing, but he did not appear. In a nutshell, the stand taken by the defendants was that due opportunity was given to the plaintiff and the



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procedure prescribed under the service regulations was followed before passing the orders under challenge.

6. Plaintiff filed a replication re-asserting his stand. Issues were framed on the basis of the pleadings of the parties, who led evidence in support of their case. After hearing them, Trial Court by judgment and decree dated 04.04.1995, dismissed the suit. Plaintiff filed a first appeal, which found favour with the learned Additional District Judge, Patiala, and by the impugned judgment, both the orders dated 22.07.1991, Ex.P-3, and 22.01.1992, Ex.D-4, were held to be illegal and the plaintiff was found entitled to the consequential service benefits. However, prayer for grant of interest was specifically declined. Defendants are before this Court in the above background and the plaintiff has filed the connected appeal claiming interest.

7. Mr. Anil Sharma, counsel for the defendant-appellant has argued that the First Appellate Court has erred in recording the finding that the Depot Manager was not competent to pass orders of removal of the respondent from service as the powers of the General Manager had been delegated to the Depot Manager. On the other hand, Mr. Jai Bhagwan, counsel for the plaintiff-respondent has supported the judgment passed by the Lower Appellate Court and submits that he is entitled to interest on the arrears of salary, which were due to him.

8. I have heard counsel for the parties and considered their respective submissions and examined the record with their able assistance.

9. The common case of the parties is that the services of the plaintiff-respondent were governed by the Pepsu Road Transport

Corporation (Conditions of Appointment and Service Regulations), 1981, (hereinafter referred to as the ‘Regulations’) and he was appointed as a driver vide appointment letter dated 16.12.1964, Ex.P-1, issued by the General Manager of the Corporation. Rule 21 of the Regulations provides that Appendix-B specifies the authority, who is competent to impose the penalties. The relevant extract of Appendix-B, is reproduced hereunder:-

“Appendix - B

Sr. No.	Designation of Post	Authority Competent to make appointment	Nature of penalty	Authority to impose penalty	Appellate Authority
1	XXX	XXX	XXX	XXX	XXX
2	XXX	XXX	XXX	XXX	XXX
3	Machinist, Mechanic, Fitter, Tyreman Borer, Welder, Blacksmith, Asst. Tyreman, Carpenter, Upholster, Electrician, Painter, R. Repairer, Batter Attendant, Turner, Helper, Vulcaniser, Asstt. Fitter, Cleaner, Sweeper, Chowkidar, Store Boy, Gate Keeper, Daftri, Record Lifter, Peon, Ward Attendant, Gunman, Mali/Driver, Staff Car Driver, Sub-Inspector, Yard Master, Conductor in depots.	General Manager	(a) to (f) (g)	General Manager Additional Managing Director	Additional Managing Director Managing Director
4	XXX	XXX	XXX	XXX	XXX



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10. From the above reproduction of the relevant extract, it is evident that the authority competent to make the appointment to the post of driver is the General Manager and he has been specified as the authority, who is competent to impose the penalty in Column 3 above.

11. Coming to the facts of the present case, a perusal of the dismissal order dated 22.07.1991, Ex.P3, shows that it has been passed by the Depot Manager. It cannot be disputed that the Depot Manager was subordinate to the General Manager, who was the appointing as well as the authority competent to impose penalty. Although, it has been argued by the appellant that the Depot Manager is competent to pass the dismissal order, however, no material could be referred to, during the course of the arguments to fortify this submission. As the authority who passed the punishment order, Ex.P-3, was not the authority competent to pass the dismissal order, the Lower Appellate Court is right in setting aside the dismissal order as well as the consequential order. This is no illegality in the finding recorded by the First Appellate Court, which deserves to be upheld.

12. At this stage, counsel for the appellant has requested that liberty be granted to the appellants to pass a fresh order in accordance with law. This request deserves to be considered and rejected. Civil suit was filed by the plaintiff-respondent in 1992 and the litigation has remained pending for the last more than three decades. Plaintiff has unfortunately expired during the pendency of this appeal on 30.09.2009 and his legal representatives have been brought on the record. It is high time that the litigation is given a quietus and is brought to an end.

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13. Insofar as the submission of the counsel for the plaintiff is concerned, suffice is to say that the Lower Appellate Court has specifically declined the grant of interest on the arrears of salary. This Court is of the view that the discretion has been properly exercised by the Lower Appellate Court and does not call for any interference.
14. Finding no merit in both the appeals, they are dismissed with no order as to costs.
15. Pending applications, if any, shall also stand disposed of.

04.07.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No