



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

710

RSA-840-2001

Date of Decision: November 19, 2024

Ram Sarup Kochhar

.....Appellant(s)

Vs.

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Dr. Malvika Singh, Advocate
for the appellant(s).

Mr. Harish Nain, AAG, Haryana.

SUDEEPTI SHARMA J. (ORAL)

The present appeal is preferred against the judgment and decree dated 30.01.1995 passed by Learned Sub Judge, Ist Class, Chandigarh and judgment and decree dated 18.08.2000 passed by learned District Judge, Chandigarh whereby the appeal filed against the judgment and decree dated 30.01.1995, was dismissed.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that the appellant was appointed as Junior Field Investigator on 09.03.1982 and was posted in the office of District Statistical Office, Kurukshetra. As per the policy of the Government to give a chance to their employees to improve their education, the respondents circulated a letter dated 22.07.1987 inviting applications for permission to appear in the examination and for higher studies. The appellant applied for permission to appear in examination of B.Ed (Yoga) to be held by Panjab

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University, Chandigarh for the year 1987-1988 and the application was forwarded to the respondent. The appellant had no information about granting or withholding the permission on his application till 28.08.1987 whereas the classes had started from 20.07.1987. The appellant vide application dated 28.08.1987 had applied for leave from 01.09.1987 to 31.05.1988 but no reply was received by the appellant till 01.09.1987. Thereafter, the appellant applied for casual leave for 01.09.1987 and went to B.Ed (Yoga) College, Chandigarh where he was informed that he should either join the classes immediately or his admission would be cancelled. On the assumption that the permission was granted to him by the respondent he started attending the classes, whereas, the respondents had rejected the application of appellant for leave from 01.09.1987 to 31.05.1988. As per the averments in the civil suit, the appellant came to know about the rejection of leave application in the month of February 1988. Thereafter, he discontinued his studies and went to the office at Kurukshetra to join his duty. But he was told that he can only join duty after seeking permission from higher authorities and he would be informed regarding the same if the permission is granted to him to join. But the appellant received a letter on 16.01.1989 from the Enquiry Officer calling upon him to explain his position within 15 days. In between, he was allowed to join his duty on 28.02.1989 after he approached Advisor, Economic and Statistical, at Haryana Chandigarh.

3. The appellant was served with a charge-sheet and he filed a detailed reply. The enquiry officer was appointed and enquiry was concluded vide enquiry report dated 29.03.1989. Thereafter, show cause notice was served upon the appellant proposing to remove him from service. He filed reply to the



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same but his services were terminated vide order dated 31.05.1989. He filed civil suit challenging the same but the same was dismissed vide judgment and decree dated 30.01.1995.

4. He filed appeal against the judgment and decree dated 30.01.1995 which was also dismissed by learned District Judge, Chandigarh vide judgment and decree dated 18.08.2000. Hence, the present Regular Second Appeal.

SUBMISSION OF LD. COUNSELS FOR THE PARTIES

5. Learned counsel for the appellant contends that both the Courts below did not take into consideration the fact that while passing the impugned order dated 31.05.1989, no opportunity of being heard was granted by the respondents to the appellant.

6. Per contra, learned counsel for the respondents contends that there are concurrent findings against the appellant by both the Courts and both the Courts have rightly dismissed the civil suit as well as appeal filed by the appellant.

7. I have heard learned counsel for the parties and perused the whole record of this case.

8. A perusal of the record shows that as per the reply filed by the respondents, it is stated that the appellant willfully absented from duty w.e.f. 02.09.1987 to 28.02.1989 despite issuing him several memos and reminders. Further that permission for study can only be granted if no work of the Government suffers and the appellant was not permitted to join B.Ed. (Yoga) as he had been assigned the duties of completion of important work of National Sample Survey.



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9. A perusal of the record shows that it is an admitted fact that the appellant remained willfully absent from official duty from 02.09.1987 to 28.02.1989.

10. Further, it is admitted case of the appellant that he joined B.Ed (Yoga) course before any prior permission from the competent authority and also before his leave was being sanctioned. In the case of the appellant, proper Enquiry Officer was appointed and enquiry report was submitted after considering the reply filed by the appellant.

11. A perusal of the record further shows that order dated 31.05.1989 was passed after following proper procedure as laid down under the Rules and Regulations governing the services of the appellant.

12. Further, the appellant himself has admitted that without any prior permission to go in for higher studies, he joined the classes. It is further admitted case of the appellant that when no permission was granted to him for higher studies, he applied for leave and without his leave being sanctioned, he joined the classes of higher studies. Therefore, the conduct of the appellant is proved to be casual towards his duty from his proceeding on leave without any prior permission to join the B.Ed (Yoga) classes and by willfully absenting himself from duty.

13. It is admitted case of the appellant that before passing any order on the application vide which he had sought the permission to join the classes and before obtaining prior sanction of his leave, he joined course after availing one day casual leave for 01.09.1987, meaning thereby that neither the permission for doing the course had been granted prior to 01.09.1987 nor the leave for 01.09.1987 to 31.05.1988 was sanctioned. Further, it is admitted case of



appellant that rejection of permission as well as leave was conveyed to him and Enquiry Officer was appointed to enquire into the matter about the willful absence from duty from 01.19.1987 to 28.02.1989 and to submit its report. Though he was permitted to join duty but his willful absence cannot be condoned by the same. The enquiry was conducted in accordance with law after following proper procedure. Therefore, no fault can be found in the enquiry report. Further opportunity of being heard was granted to the appellant since the reply filed by the appellant was considered while passing the impugned order dated 31.05.1989.

14. In view of the above, I do not find any infirmity in the judgment and decree dated 30.01.1995 passed by Learned Sub Judge, Ist Class, Chandigarh and judgment and decree dated 18.08.2000 passed by learned District Judge, Chandigarh and the same are upheld. The present Regular Second Appeal is dismissed. However, the parties are left to bearing their own costs. Decree sheet be drawn.

15. All the pending applications also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

November 19, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable	Yes / No