

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

(111)

RSA-4766-2019 (O&M)

Date of Decision : January 23, 2024

EASI Jagdish Singh

.. Appellant

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Mamli, Advocate, for the appellant.

Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)**CM-13594-C-2019**

As prayed for, the application is allowed.

RSA-4766-2019

1. In the present appeal, the challenge is to the orders passed by the Courts below by which, the suit filed by the appellant-plaintiff challenging the imposition of punishment by the respondent-Department of stoppage of one increment with cumulative effect, has been dismissed by the trial Court vide judgment and decree dated 22.03.2018 and the appeal filed by the appellant-plaintiff before the lower Appellate Court was also dismissed on 03.04.2019.

2. Learned counsel for the appellant-plaintiff submits that in the present appeal, the only allegation against the appellant-plaintiff was that he was creating ruckus with the general public under the influence of the liquor, when he was apprehended by the DSP, City Kurukshetra. The appellant-plaintiff was charge sheeted and an enquiry was held wherein, the

appellant-plaintiff was held guilty of the allegations leveled against him and

punishment of stoppage of one increment with cumulative effect was imposed and the appeal as well as the revision filed against the said punishment order was dismissed. All these orders of punishment, dismissal of appeal as well as rejection of revision were challenged by the appellant-plaintiff by filing a civil suit. The said suit came to be decided by the trial Court on 22.03.2018 and the same was dismissed keeping in view the evidence which has come on record.

3. Feeling aggrieved against the said decision, the appellant-plaintiff filed an appeal, which also came to be dismissed on 03.04.2019, which judgments of the Courts below have been impugned in the present regular second appeal.

4. Learned counsel for the appellant argues that in the present case, the urine test of the petitioner was not conducted so as to treat the petitioner as under the influence of the liquor hence, the appellant-plaintiff was wrongly held guilty of the allegations.

5. Qua the said argument, it may be noticed that the appellant-plaintiff was taken for medical examination and a due MLR was prepared by the doctor concerned wherein, it has been duly recorded that the appellant-plaintiff was smelling of liquor. Once, the said MLR has been taken into account by the authorities concerned in the departmental proceedings, the appellant-plaintiff was held guilty of the allegations of abusing the general public by creating ruckus under the influence of liquor.

6. It may be noticed that for departmental enquiry, the nature of evidence required is preponderance and not beyond reasonable doubt. Once, there is an MLR which described the appellant-plaintiff under the influence of the liquor, the said MLR has rightly been taken into account by the enquiry officer to hold the appellant-plaintiff guilty.

7. Further, learned counsel for the appellant has not been able to dispute that it has already come on record that during the enquiry proceedings, the DSP City Kurukshetra who visited the police station where the appellant-plaintiff was creating ruckus, has also confirmed in his statement during the disciplinary proceedings.

8. Learned counsel for the appellant-plaintiff has not been able to deny that in the MLR as well as in the statement of DSP City Kurukshetra against whom, there is no mala fide attached, have deposed against the appellant-plaintiff with regard to the allegations alleged. That being the conceded facts, keeping in view the nature of the evidence required in the departmental proceedings, holding of the appellant-plaintiff guilty of the allegations, cannot be found to be arbitrary or illegal.

9. Further, the allegation against the appellant-plaintiff were duly proved by the statement of other employees including the DSP City Kurukshetra. That being the factual aspect, when an independent person, who visited the police station and witnessed the scene, deposed against the appellant-plaintiff, it cannot be said that the appellant-plaintiff was wrongly held guilty of the allegations alleged keeping in view the nature of evidence required to prove the allegations in the departmental enquiry. Moreover, this Court in this regular second appeal will not appreciate the evidence which came on record in the disciplinary proceedings as an Appellate Authority to decide whether charges are proved or not. No material defect in the disciplinary proceedings have been pointed out, which has come on record so as to cause any prejudice to the appellant.

10. As no perversity has been pointed out by the learned counsel for the appellant-plaintiff in the orders passed by the Courts below, no ground is made out for any interference by this Court in the present regular

second appeal.

11. No other argument was raised.
12. Dismissed.

January 23, 2024

(HARSIMRAN SINGH SETHI)

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JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No