



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

RSA-1624-2006 (O&M)
Reserved on:01.10.2024
Pronounced on:04.10.2024

State of Haryana and others

....Petitioners

Versus

Pappu Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bhardwaj, A.A.G., Haryana
for the appellants.

Mr. Mrigank Sharma, Advocate
for the respondent.

HARPREET SINGH BRAR, J.

1. The instant regular second appeal is preferred by the appellants-defendants against the judgment and decree dated 31.01.2006 passed by the learned lower Appellate Court dismissing the appeal preferred by the defendants-appellants against the judgment and decree dated 31.03.2005 passed by the learned trial Court vide which the suit of the respondent-plaintiff for declaration with consequential relief has been decreed to the effect that the notice dated 08.04.1998 issued by the General Manager, Haryana Roadways, Rohtak, the impugned order dated 05.06.1998 terminating the services of the respondent-plaintiff, which was subsequently upheld by the first Appellate Authority and the second Appellate Authority vide orders dated 24.11.1998 and 23.06.1999 respectively, are declared illegal and further the respondent-plaintiff is declared entitled to re-instatement with all consequential benefits including continuity of service with back wages along with interest at the rate of 18% per annum till actual realization and the judgment and decree dated 31.03.2005

passed by the learned trial Court has been affirmed. Against the aforesaid



judgment of the learned lower Appellate Court, the instant regular second appeal has been preferred by the appellants-defendants.

2. Succinctly, the bone of contention is that the respondent-plaintiff was appointed as a helper on 04.08.1993 and was subsequently appointed as a conductor on 24.05.1994. A show cause notice bearing No. 12777 dated 24.05.1999 was issued by the General Manager, Haryana Roadways, Rohtak to the respondent after the Work Manager had conducted a preliminary inquiry with regard to the allegations of embezzlement to the tune of Rs. 105/- from the Government as he allowed some passengers to travel in the bus without issuing tickets and the report of the same was forwarded to the General Manager. The show cause notice dated 08.05.1998 directed the respondent to submit an explanation within 15 days as to why his services should not be terminated, to which the respondent filed a written reply dated 22.05.1998. Following this, the then General Manager imposed a fine of Rs. 2200/- upon the respondent, which he paid vide receipt No. 9776 dated 25.05.1998. Thereafter, the services of the respondent were terminated vide order dated 05.06.1998. The respondent preferred an appeal against the termination order which was dismissed by the Transport Commissioner vide order dated 24.11.1998. The respondent preferred a second appeal before the Financial Commissioner and Secretary, Government of Haryana which was also dismissed vide order dated 23.06.1999. Hence, the suit for declaration.

3. The appellants-defendants appeared and contested the suit by filing a written statement raising preliminary objections qua maintainability and want of cause of action. On merits, it was stated that the Inquiry Officer conducted the inquiry properly and submitted his report to the competent authority i.e. General Manager, Haryana Roadways, Rohtak, holding the



respondent guilty of the charges. The General Manager considered the inquiry report and issued notice to the respondent. The respondent deposited Rs. 2,200/- as part payment of the amount of total recovery. The services of the respondent were terminated following the due procedure as per rules vide order dated 05.06.1998.

4. On the basis of pleadings, the learned trial Court framed as many as seven issues including relief. Parties led their respective evidence and on appreciation of the evidence, the learned trial Court decreed the suit filed by the respondent-plaintiff and the appeal preferred against the judgment passed by the learned trial Court on behalf of the appellants-defendants has been dismissed, as detailed herein above vide judgment and decree dated 31.01.2006, which is under challenge in the instant regular second appeal.

5. Learned State counsel appearing on behalf of the appellants-defendants argued that both the Courts below have erred in passing decrees in favour of the respondent-plaintiff as he himself has admitted to misappropriate the government funds. The fine of Rs. 2,200/- imposed upon the respondent-plaintiff was with respect to various other cases of fraud. No such orders, whereby the payment of fine would result in the settlement of the case, were ever issued to the respondent-plaintiff, but this was wrongly interpreted by the learned Courts below while deciding the case. Moreover, there are numerous serious allegations against the respondent-plaintiff, but the learned Courts below failed to appreciate the documentary evidence. Further the lower Appellate Court committed an error in confirming the judgment of the trial Court and holding that the respondent-plaintiff should be reinstated with full back wages and all other ancillary benefits since the respondent-plaintiff was a daily wager i.e. working on a contractual basis.



6. *Per contra*, learned counsel for the respondent-plaintiff submitted that since the General Manager, Haryana Roadways, Rohtak had already imposed a fine for the alleged misconduct on the part of the respondent-plaintiff, which he duly paid vide receipt No. 9776, subsequent proceedings which ultimately led to the termination of his services are illegal as the respondent-plaintiff was unnecessarily vexed and penalized twice for the same offence. The imposition of second punishment for the same offence after the imposition of first cannot be sustained as per law as it's a case of double jeopardy.

7. I have heard learned counsel for the parties and have gone through paper book with their able assistance.

8. Vide order dated 02.04.2007, this Court had framed the following substantial question of law for consideration:-

“Whether the order of termination of services of the plaintiff passed after due inquiry could be interfered with by the Civil Court?”

9. The maxim '*nemo debet bis puniri pro uno delicto*' asserts that no one should be penalized twice for the same misconduct. Once a competent authority has ruled on a particular set of facts, any subsequent prosecution on those same facts is barred. In essence, this principle ensures that a person should not be troubled twice for the same cause, as pursuing multiple actions based on identical facts would amount to harassment, which is contrary to public policy. Section 26 of the General Clauses Act reinforces this by prohibiting double punishment for the same offence or cause. Although protection against double jeopardy originated in common law, it was granted constitutional status in India under Article 20(2) of the Constitution. In the present case, the appellants-defendants' action of imposing a fine on the



respondent-plaintiff appears to reflect an exercise of their executive authority to enforce disciplinary measures for purported breaches of service rules or duty. Having already penalized the respondent-plaintiff through a fine for misconduct, specifically for transporting passengers without issuing tickets, they could not justifiably subject him to further disciplinary action leading to his dismissal. Therefore, this constitutes a clear case of double jeopardy. As such, the order of termination of services of the respondent-plaintiff was rightly interfered with by the learned Courts below.

10. In view of the judgments passed by the Hon’ble Supreme Court in *Pankajakshi (Dead) through Legal Representatives and others Vs. Chandrika and others (2016) 6 SCC 157*, *Randhir Kaur Vs. Prithvi Pal Singh and others (2019) 17 SCC 71* and *Gurbachan Singh (dead) through LRs Vs. Gurcharan Singh (dead) through LRs and others*, questions of law are not required to be framed in second appeal before the Punjab and Haryana High Court whose jurisdiction is circumscribed by provisions of Section 41 of the Punjab Act, however, since this Court vide order dated 02.04.2007 has already framed the substantial question of law as reproduced above, the same is answered in the affirmative and in favour of the respondent-plaintiff.

11. Consequently, this Court does not find any illegality and perversity in the judgments and decrees rendered by both the Courts below, which are based upon correct appreciation of facts and law. No ground for interference is made out. Resultantly, the instant regular second appeal stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

04.10.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No