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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision:12.01.2024

DEEPAK KUMAR

... APPELLANT

VS.

HARYANA STATE AND ORS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: None for the appellant.

Mr. Sharad Aggarwal, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

1. Plaintiff-appellant is in second appeal against the concurrent finding of fact recorded by both the Courts below.
2. Brief facts, leading to the filing of this appeal, are that the plaintiff-appellant joined the transport department as a Driver in August, 2002, however, due to his absence from duty for different periods from 06.11.2008 to 14.12.2008, a departmental inquiry was initiated and a finding was given by the Inquiry Officer against him. By order dated 01.06.2011, he was dismissed from service and departmental appeal was rejected by order dated 11.03.2013. Challenging both the orders, he has filed a suit seeking a decree for declaration that he is entitled to continue in service with backwages from the date of dismissal. Suit was contested

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by the defendant-respondents. After trial, suit was dismissed by the Trial Court by judgment and decree dated 21.10.2014, which has been upheld by the First Appellate Court on 15.07.2015.

3. Counsel for the appellant is not present, although as per office report, he has been intimated.

4. This Court has gone through the judgments passed by the Courts below, heard counsel for the State-respondent and examined the record with his assistance.

5. It has come on the record that the plaintiff-appellant was absent from service for the periods from 06.11.2008 to 30.11.2008, 01.07.2007 to 10.07.2007, 14.07.2007 to 31.07.2007, 28.12.2007, 26.08.2008 to 31.08.2008, 01.05.2008 to 18.07.2008, 01.12.2008 to 14.12.2008, 01.01.2009 to 31.05.2009, 17.07.2010 to 27.08.2010 & 04.01.2011 to 15.03.2011. He was issued a show cause notice and was afforded ample opportunity to present his case before the Inquiry Officer, however, he has failed to produce any evidence. Record further shows that there is no infirmity or breach of procedure in conducting the departmental proceedings. The Courts below have examined the ocular and documentary evidence produced by him. Plaintiff-appellant could not substantiate the plea that he was suffering from jaundice and the testimony of Nasirudeen (PW-2), who claimed to be working as a 'vaidh' in a village in Rajasthan, was found to be untrustworthy. This witness could not produce any record maintained by him and therefore it remains doubtful as to whether he was ever consulted by the plaintiff-appellant.

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6. After examining the evidence, this Court is of the view that there is no illegality or infirmity in the orders passed by the Courts below, which deserve to be upheld.

7. Finding no merit, appeal is hereby dismissed.

12.01.2024
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(SUVIR SEHGAL)
JUDGE

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