

RSA-4753 of 2013 (O&M)

2024:PHHC:134811



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

RSA-4753 of 2013 (O&M)

Reserved on: 24.09.2024

Pronounced on: 15.10.2024

Ex. Constable Jagpal Singh

.....Appellant

Versus

The Punjab State and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Sushane Puri, Advocate,
for Mr. K.G. Chaudhary, Advocate,
for the appellant.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J.

1. This Regular Second Appeal is directed against the judgment and decree dated 07.02.2011, passed by the Court of learned Civil Judge (Junior Division), Gurdaspur, whereby suit for declaration filed by the appellant-plaintiff has been dismissed as well as against the judgment and decree dated 08.05.2013, passed by the Court of learned Additional District Judge, Gurdaspur, vide which the appeal filed by the appellant-plaintiff against the judgment and decree of the trial Court, has been dismissed.

2. For convenience sake, reference to parties is being made as per their status in the civil suit. Briefly stated, the plaintiff filed a suit for declaration pleading therein that while he was serving as

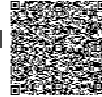
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constable in 82nd Battalion PAP, he was dismissed from service by defendant no.4 i.e. the Commandant, 82nd Battalion, PAP, vide order bearing no.1447-53/Steno dated 25.1.2002. The allegations leveled against the plaintiff were that at the time of his recruitment in the department he submitted matric certificate bearing Roll No.245256, Serial No.670079, in which his date of birth was mentioned as 13.2.1971. It was further alleged that enquiry was got conducted to this effect from the Punjab School Education Board, Mohali by the department and the Secretary, Punjab School Education Board, vide letter no.PSEB/SSE/Enquiry/2000/722 dated 20.4.2001, informed that as per their record, the date of birth of the plaintiff is 13.2.1969 and not 13.2.1971. It is also alleged that at the time of recruitment in the police department, plaintiff was not eligible. Feeling aggrieved by the above said order of dismissal, plaintiff filed a departmental appeal with the DIG PAP, Punjab, Chandigarh, which was rejected vide order dated 17.9.2008 and conveyed to the plaintiff at his residential address in District Gurdaspur. Upon notice, defendants contested the suit. After hearing learned counsel for the parties and appreciating the evidence on record, the trial Court dismissed the suit of the plaintiff vide judgment and decree dated 07.02.2011. Aggrieved against the judgment and decree of the trial Court, plaintiff filed an appeal, which too has been dismissed by the lower appellate Court, vide judgment and decree dated 08.05.2013. Hence, present Regular Second Appeal.

3. Learned counsel for the appellant has contended that the Courts below have committed a grave error in dismissing the suit of the



appellant-plaintiff without appreciating the fact that at the time of his recruitment, he had submitted genuine and correct matriculation certificate showing his date of birth as 13.02.1971 as issued by the Punjab School Education Board. He further contended that the matriculation certificate was submitted in the same position as it had been received from the Punjab School Education Board. He contended that there may be some clerical mistake on the part of the Punjab School Education Board, however, appellant was not at fault. He further contended that appellant was fully eligible to remain in service even if any date of birth out of these dates is taken to be correct on the date of recruitment. He further contended that no specific findings of gravest act of misconduct which lead to his dismissal from service was recorded by the punishing authority. He further contended that Courts below have also failed to appreciate that no personal hearing was granted to the appellant-plaintiff before dismissing him from service. He contended that the judgments and decrees of the Courts below being perverse are liable to be set aside.

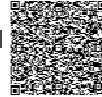
4. *Per contra*, learned State counsel has contended that suit of the appellant-plaintiff was rightly dismissed by both the Courts below. He further contended that the judgments and decrees passed by both the Courts below are legal and valid, therefore, no interference is called for by this Court.

5. I have heard learned counsel for the parties and perused the record.



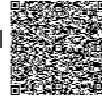
6. Admittedly, at the time of his recruitment, the appellant had furnished the matriculation certificate showing his date of birth as 13.2.1971. As per the appointment order, he was appointed subject to verification of the documents submitted by the appellant-plaintiff and when this matriculation certificate issued by the Punjab School Education Board was got verified from the Board, it revealed through letter dated 20.4.2001, issued by the Punjab School Education Board that as per their record, the date of birth of appellant was 13.2.1969 and not 13.2.1971. The Courts below have rightly recorded that clearly the plaintiff in order to get recruitment had forged this entry of date of birth from 13.2.1969 to 13.2.1971 and the act of the plaintiff is certainly the gravest act of misconduct. Appellant-plaintiff while appearing as PW1 has admitted in his cross-examination that a regular departmental enquiry was conducted against him in which he was found guilty. Thus even in the departmental proceedings, there is no defect, rather a full-fledged departmental enquiry was conducted against the plaintiff. The appellant-plaintiff has not led any evidence to the effect that there is some defect in the enquiry. It is a settled position of law that the civil court is only to see the method of awarding punishment and is concerned with the procedure adopted by the punishing authority. The Civil Court is to see the deficiency in the decision making process and not the decision itself.

7. The Hon'ble Supreme Court in ***Union of India & Anr. v. K.G.Soni, 2006(6) SCC 794*** has observed that the Courts should not interfere with the administrator's decision unless it was illogical or



suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in ***Associated Provincial Picture Houses Ltd. V. Wednesbury Corporation, (1948) 1 KB 223***, the Court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision making process and not the decision.

8. This Court in ***Mata Din v. Haryana Education Board and another, 2009(4) PLR 573*** has held that the scope of judicial review regarding interference with punishment order is very limited. The jurisdiction of the civil court is only to see the method/manner of awarding punishment. The court is only concerned with the procedure adopted by the punishing authority. If the procedure adopted by the punishing authority is according to rules and natural justice, then no interference with the punishment order is called for. The civil court cannot go into the merit of the charges. In case the finding of inquiry officer is based on some evidence then court cannot re-appreciate the evidence or weigh the same like the appellate authority. So long there is some evidence in support of the conclusion arrived at by the departmental authority, the same has to be pointed out before the civil court, furthermore, if defect is pointed out then the delinquent employee has to show as to what prejudice has caused to him on account of said defect.

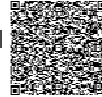


9. The Hon'ble Supreme Court in ***State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723*** has held that the High Court is not a Court of appeal which examines the merits of the findings recorded in the departmental inquiry and the power of judicial review is confined to; whether the inquiry was held by a competent authority; according to the procedure prescribed and whether rules of natural justice have been followed.

10. To the similar effect is the judgment of the Hon'ble Supreme Court in ***Central Industrial Security Force and others v. Abrar Ali, 2017(1) SCT 682*** wherein it has been held as under: -

*“8. Contrary to findings of the Disciplinary Authority, the High Court accepted the version of the Respondent that he fell ill and was being treated by a local doctor without assigning any reasons. It was held by the Disciplinary Authority that the Unit had better medical facilities which could have been availed by the Respondent if he was really suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to re-appreciation of evidence. It is settled law that re-appreciation of evidence is not permissible in the exercise of jurisdiction under Article 226 of the Constitution of India. In ***State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaiya reported in 2011(2) S.C.T. 782 : 2011(3) Recent Apex Judgments (R.A.J.) 28 : (2011) 4 SCC 584***, this Court held as follows:*

"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic inquiry, nor interfere on the ground



*that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide **B.C. Chaturvedi v. Union of India**, 1996(1) S.C.T. 617 : (1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44, **Union of India v. G. Ganayutham**, 1997(4) S.C.T. 214 : (1997) 7 SCC 463 : 1997 SCC (L&S) 1806, **Bank of India v. Degala Suryanarayana**, 1999(3) S.C.T. 669 : (1999) 5 SCC 762 : 1999 SCC (L&S) 1036 and **High Court of Judicature at Bombay v. Shashikant S. Patil**."*

11. Concurrent findings of fact have been recorded by both the Courts below and learned counsel for the appellant has failed to show that the same are perverse or based on misreading, non-reading or mis-appreciation of the material evidence on record.

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12. No question of law, muchless substantial question of law has been raised or arises for consideration in the present appeal. No other point has been urged.

13. In view of the above, the present appeal is dismissed.

14. Pending application(s), if any, stand disposed of accordingly.

15.10.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No