



RSA-2921-2015 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA-2921-2015 (O & M)
Date of decision: 27.08.2024

SARABJIT SINGH

...APPELLANT

VERSUS

STATE OF PUNJAB AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R. S. Chauhan, Advocate,
Mr. Rohit Sapehiya, Advocate &
Ms. Deepika Chauhan, Advocate for the appellant.

Ms. Amrita Garg, AAG, Punjab.

SUVIR SEHGAL, J.CM-7074-C-2015

1. For the reasons given in the application, it is allowed.
2. Delay of 03 days in filing of the appeal is condoned.

CM-7075-C-2015

1. Exemption, as prayed for, is granted.
2. Application is allowed.

RSA-2921-2015

1. Plaintiff-appellant is in second appeal before this Court assailing the concurrent finding recorded by both the Courts below.
2. Plead case of the plaintiff-appellant, who is working as a driver with the Punjab Roadways, is that he was served with a charge-sheet

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on the allegation of causing financial loss to the Government to the tune of Rs.20 lacs on account of compensation awarded by Motor Accident Claims Tribunal (MACT) on account of a vehicular accident. It has been averred that on the basis of enquiry report, a show cause notice was issued. Order dated 14.02.2008 was passed imposing punishment of stoppage of five annual increments and by order dated 19.05.2010 departmental appeal was rejected. Challenging both the orders, plaintiff filed a suit for declaration and permanent injunction.

3. Upon being served, the defendants filed a written statement taking various preliminary objections. On merits, it is submitted that the plaintiff was served with different charge-sheets as three different claim petitions were decided against the defendants. A departmental inquiry was conducted by following the procedure prescribed under the Punjab Civil Service (Punishment and Appeal) Rules, 1970, before taking punitive action. Issues were framed on the basis of the pleadings of the parties, who led evidence in support of their case. Plaintiff appeared as his own witness and tendered documents, Ex.P1 to Ex.P-5 and closed his evidence. The defendants examined Shamsher Singh (DW-1), dealing Head Clerk, who tendered the enquiry file as Ex.D-1. After hearing counsel for the parties, Trial Court by judgment and decree dated 29.10.2013 dismissed the suit. Plaintiff remained unsuccessful in the first appeal, which was rejected by the learned District Judge, Pathankot, by judgment dated 19.12.2014, resulting in the institution of the present appeal.

4. While referring to the judgment dated 01.08.2005 passed by the learned Judicial Magistrate, Dasuya, in FIR No.143 dated 10.11.2019 lodged



Station Dasuya, Mr. R. S. Chauhan, Advocate, has contended that the appellant was acquitted of the charges framed against him and the accident did not occur due to his fault. He submits that the accident had taken place due to a mechanical defect in the vehicle and appellant could not have been held liable. It is his argument that the departmental authorities chose to overlook this vital fact while issuing charge-sheet to him and imposing the punishment.

5. Per contra, learned State Counsel has supported the judgments passed by the Courts and submits that because of the negligent driving of the appellant, huge financial liability has been cast upon the State as a consequence of the awards passed by the MACT.

6. I have heard counsel for the parties and considered their respective submissions besides examining the record with their able assistance.

7. The entire thrust of the argument of the counsel for the appellant is that once the appellant has been acquitted in the criminal trial, he could not have been proceeded against in departmental proceedings. The argument of the counsel deserves to be simply rejected. In ***Deputy Inspector General of Police and another Versus S. Samuthiram (2013) 1 SCC 598***, Supreme Court has held that the standard of proof required for holding a person guilty by a criminal court and the enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing the guilt of the accused is on the prosecution and if it fails to establish the guilt beyond reasonable doubt, the accused is assumed to be innocent. It has been further held that it is a settled law that the strict burden



disciplinary proceedings and preponderance of probabilities is sufficient. There may be many cases, where a person is acquitted for technical reasons or the prosecution giving up other witnesses since few of the witnesses may have turned hostile.

8. Adverting the facts of the present case, a perusal of the judgment dated 01.08.2005 shows that the learned Judicial Magistrate, on the basis of evidence led by the prosecution, came to the conclusion that the necessary essential ingredients of Section 304-A, IPC, were not fulfilled. The Trial Court found that the prosecution failed to bring any positive and substantive evidence to prove their case and it suffers from material infirmities. The findings recorded by the Magistrate are not binding on the disciplinary proceedings as has been held by the Supreme Court in **S. Samuthiram's case (supra)**. Therefore, the argument raised by counsel for the appellant is rejected.

9. Placing reliance upon the judgment of the Supreme Court in **Inspector General of Police and another Versus Thavasiappan (1996) 2 SCC 145**, Lower Appellate Court has come to a firm conclusion that charge-sheet and ordering of disciplinary enquiry against the appellant by the General Manager of the Punjab Roadways, who is his controlling authority cannot be said to be illegal and the punitive order passed by defendant-respondent No.2 cannot be said to have been vitiated. No material could be brought to the notice of this Court by counsel for the appellant to show that there was any breach of principles of natural justice and the disciplinary authority has violated any provision of the applicable rules. This Court does not find any infirmity or illegality in judgments passed by the Courts below,

which are affirmed.



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10. Appeal is devoid of merit and is dismissed with no order as to costs.

27.08.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No