



RSA-3280-2015 (O & M)

-1-

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

226

RSA-3280-2015 (O & M)
Date of decision: 06.08.2024

**DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD & ORS
...APPELLANTS**

VERSUS

D.S. HOODA**...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Anil Chawla, Advocate
for the appellants.

None for the respondent.

SUVIR SEHGAL J.

1. Defendants-appellants are in second appeal before this Court challenging the judgment and decree passed by the First Appellate Court.
2. Plead case of the plaintiff-respondent is that he retired from the post of Executive Engineer on 28.02.2011. During his service tenure, he was served with a charge-sheet dated 05.04.2006, Ex.PW1/A, under Regulation 7 of the H.S.E.B. Employees (Punishment and Appeal) Regulations, 1990 (for short "the Regulations") for imposition of a major penalty. He submitted a reply to the charge-sheet, but without following the procedure laid down under the Regulations, punishment of recovery of Rs.1,30,303/- besides stoppage of two annual increments without

**RSA-3280-2015 (O & M)****-2-**

cumulative effect was imposed by the defendants vide order dated 18.01.2008. Plaintiff preferred a departmental appeal, which was dismissed on 10.06.2011. Challenging both the orders, he filed a suit for declaration alongwith consequential relief of mandatory injunction.

3. Upon being served, defendants filed a written statement contesting the suit, wherein besides taking various preliminary objections, it was submitted that when the plaintiff was working as an SDO (OP), he had committed acts of omission and commission, which were unbecoming of an officer of the Nigam. It was alleged that the plaintiff restored supply to the electricity connection of a large scale consumer after getting an amount of Rs.53,060/- deposited from him against the total outstanding amount of Rs.2,05,060/-. The connection of the consumer was again disconnected and a total amount of Rs.4,60,179/- was due from the consumer, which is recoverable from the plaintiff. It was submitted that an Inquiry Officer was appointed, who found that the charges against the petitioner were proved and on its basis, penal action was taken. Plaintiff did not file any replication to the written statement filed by the defendants. Issues were framed on the basis of the pleadings of the parties. Plaintiff stepped into the witness box as PW-1 in support of his case and also tendered documents, Ex.PW-1/1 to Ex.PW-1/7. Bachan Singh, UDC, was examined as DW-1 by the defendants, who tendered documents, Ex.D1 to D5 in evidence. After the parties were heard, the Trial Court by judgment and decree dated 15.03.2014, dismissed the suit. Plaintiff preferred an appeal before



RSA-3280-2015 (O & M)

-3-

the First Appellate Court, which was accepted by judgment dated 20.11.2014, the Trial Court findings and judgment was reversed and a decree was issued to the effect that the impugned orders are illegal and that the plaintiff is entitled to the refund of the amount alongwith interest. Defendants are before this Court in the above backdrop.

4. I have heard counsel for the appellants and have considered his submissions.

5. The undisputed case of the parties is that charge-sheet Ex.PW1/A was issued to the plaintiff under Regulation 7 of the Regulations for inflicting a major penalty, to which, the plaintiff submitted his reply. No inquiry as contemplated under Rule 8 of the Regulations was held. Merely on the basis of the reply submitted by the plaintiff, the Inquiry Officer submitted his report, which culminated in the passing of the penal order. A Full Bench of this Court in **Dr. K. G. Tiwari Versus State of Haryana and others 2001 SCC Online P & H 1548** has held that once a charge-sheet is issued under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, for imposition of a major penalty, which envisages holding of a regular departmental enquiry, the disciplinary authority cannot by merely examining the reply to the charge-sheet, inflict even a minor punishment without holding a complete departmental enquiry. In view of the settled legal position, it is evident that the procedure adopted by the defendants-appellants while imposing the punishment is in breach of the mandatory service rules and cannot be sustained.



RSA-3280-2015 (O & M)

-4-

6. It has also been established on the record that prior to the punitive action, the plaintiff was never supplied with a copy of the inquiry report. In *Union of India and others Versus Mohammad Ramzan Khan (1991) 1 SCC 588*, Supreme Court has held that whenever an Inquiry Officer furnishes a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges, the delinquent is entitled to a copy of such report and will be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of the rules of natural justice and make the final order liable to challenge thereafter. This judgment squarely applies to the facts of the present case.

7. For the afore-going reasons, this Court does not find any illegality or infirmity in the judgment passed by the Lower Appellate Court, which is affirmed for reasons which are more than one.

8. At this stage, Mr. Anil Chawla, counsel for the appellants has requested that as the charge-sheet stood served upon the plaintiff-respondent, who has submitted a reply, liberty be granted to the defendants-appellants to proceed further in accordance with law so as to take the departmental proceeding to its logical conclusion. This request has been considered, but it is not found to be feasible. The punishment order was passed against the plaintiff-respondent in the year 2008 and the departmental appeal was dismissed in the year 2011. Litigation has remained pending for the last more than 13 years. Plaintiff-respondent

has retired from service on attaining the age of superannuation. In order to give a quietus to the litigation, request made by counsel for the defendant-appellant is rejected.

9. Appeal is dismissed.
10. Pending application(s), if any, is disposed of.

06.08.2024

sheetal

(SUVIR SEHGAL)
JUDGE

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