

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.RSA-3476-2023 (O&M)

Ram Pal
.....Appellant
Versus
State of Punjab and others
..Respondents

2.RSA-1181-2024 (O&M)

State of Punjab and others
.....Appellants
Versus
Ram Pal
..Respondent

Reserved on: 06.05.2024
Date of decision: 16.05.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sourabh Singla, Advocate for the appellant
in RSA-3476-2023

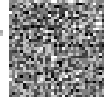
Mr. Kanav Singla, AAG, Punjab
for the respondents in RSA-3476-2023 and
for the appellants in RSA-1181-2024

ANIL KSHETARPAL, J

CM-4637-C-2024 in RSA-1181-2024

1. Connected appeal filed by the respondent against the common judgment passed by the First Appellate Court is pending in this Court. Hence, the delay of 190 days in filing the appeal is condoned.
2. CM stands allowed.

Main cases

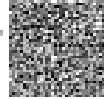


3. With the consent of the learned counsel representing the parties, two connected Regular Second Appeals arising from a common judgment passed by the First Appellate Court shall stand disposed of.

4. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

5. In RSA no.3476-2023, appellant was appointed as Hindi Teacher on 12.08.1975. His services were terminated by the order dated 15.12.2003 on the ground that he has been convicted in FIR no.83 dated 18.11.1994 under Section 420, 468, 471 IPC and sentenced to 2 years rigorous imprisonment and fine. He filed an appeal, which was dismissed on 01.09.2016. Thereafter, he filed a civil suit for the grant of decree of declaration claiming that the aforesaid orders are illegal, null and void. The State of Punjab contested the suit on the ground that the services of the plaintiff have been terminated on account of his conviction in the criminal case involving moral turpitude. The trial court dismissed the suit. The First Appellate Court held that no reasons were given by the competent authority and the mis-conduct committed by the appellant was not considered and there was no application of mind by the punishing authority. Even the conduct of the appellant was not considered. While setting aside the order of termination, the court observed that the respondents (State of Punjab) shall be at liberty to initiate fresh inquiry.

6. In the beginning, the appellant-Ram Pal filed an appeal in which the learned counsel representing the State of Punjab submitted that the departmental inquiry shall be completed within a period of 6



months. Hence, the appeal was disposed of. Subsequently, State of Punjab filed an application for recall of the order on the ground that the State counsel inadvertently made the statement without instructions from the Department and departmental inquiry was neither pending or proposed.

7. During the pendency of the application, the State of Punjab has also filed an appeal.

8. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

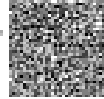
9. The following question requires decision:-

i) whether it is mandatory for the employer to conduct a departmental inquiry before taking any disciplinary action, if the employee has been convicted on a criminal charge involving moral turpitude.

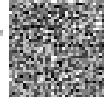
10. Second proviso to Article 311 (2) of the Constitution of India lays down three exceptions to the normal rule that the employee shall not be dismissed or removed or reduced in rank except after an inquiry. The service rules have been notified on the similar lines.

11. In this case, the employee Ram Pal was convicted on the allegations that he has forged the order of the High Court as well as the order passed by the Director, Public Instructions, Punjab. The relevant findings of the Court while convicting the plaintiff reads as under:-

“In the case in hand, it is proved that document order of Hon’ble High Court Ex.PW6/B and order of DPI Punjab Ex.PW5/A is a forged document. They are not genuine document, because District Education Officer, Patiala has written to the

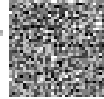


Registrar, Punjab and Haryana High Court regarding Revision Petition No.3178 dated 23.7.93 vide letter written to the Registrar by D. E. O. Which is Ex. PW2/C and another letter written to DPI Schools regarding verification of the order of DPI Schools dated 22.3.94 vide No. 207/94 vide letter Ex PW2/D by the District Education Officer, Patiala. However, as per this letter PW-2/E Surjit Kaur Assistant Director has not reply to the District Education Officer, Patiala that no order has been issued by the DIP regarding writ Petition No.3178 dated 26.3.93. This letter has also been proved by PW Surjit Kaur. A letter has also been received from the Assistant Registrar, Writ Hon'ble High Court, Chandigarh that no order or dated 22.11. 93 has been passed by the Hon'ble High court. Moreover, Sh. G. S. Sonny PW-9 Assistant Registrar, Hon'ble High court produced writ No.3178/93 copy of which is Ex PW9/A, this Writ Petition is regarding M/s Ambala Bus Dindicate Vs. State of Punjab, As such it is proved that order of the Hon'ble High Court Ex, PW6/B and order of DPI Ex, PW5/A are not been genuine document. They are forged documents, Now the question arise that who prepared this forged documents. Although, the learned counsel for the accused argued that there is no receipt Register has been produced by the prosecution in the court to prove that the above said document has been produced by accused Ram Lal to Surinder Singh Head Master Government High School in the presence of Karnail Singh Punjabi Teacher, but who is beneficiary of this documents certainly he is accused Ram Pal who *is beneficiary of these documents*. *As per order* of the Hon'ble High court he was entitled to get 36941/- as litigation expenses. AS per order DPI Ex, PW5/A Head Master Government High School Kartarpur Momian was directed to make the payment of Rs.36941/- to accused Ram Pal as per forged order of the Hon ble High court, it means that these forged documents are prepared by accused to get momentary benefits. Moreover, it does not effect the prosecution case that no receipt register has been produced in the court regarding the receipt of this forged document by Sh. Surinder Singh Head Master Government High School Kartarpur Momian.The statement of PW-6 Sh. Karnail Singh Punjabi Teacher Government High School Kartarpur Momian and PW-7 Sh.Surinder Singh Head Master Government High School Kartarpur Momian are sufficient to prove that



accused produced the above said forged document on dated 22.4.94 to Sh. Surinder Singh Head Master in the presence of Sh. Karnail Singh Punjabi Teacher. These prosecution witnesses namely Surinder Singh Head Master and Sh. Karmail Singh Punjabi Teacher were working with the accused at the time of producing of these documents by the accused Ram Pal, Moreover accused himself admitted while making endorsement on the order of DPI Ex, PW5/A with his own hand that he has not made any addition or alteration in the order. The endorsement is Ex, PW5/A1. This endorsement has been made on the forged order of DPI Ex. PW5 A by the accused with his own hand in the presence of Sh *Surinder Singh* Head Master Government High school Kartarpur Manian. The endorsement in Ex. PH5/AL. Moreover, the accused has also moved application Ex.PW6/9 written with his own hand to Head Master Government High school Kartarpur Momian that the above maid document Writ Petition of Hon'ble Punjab and Haryana High court order of DPI received by him from Inderjit Singh Head Master, Patran, These documents has been proved by sh. Surinder Singh Head Master while appearing in the court. Moreover, the accused has also furnished his affidavit Ex. PW6/D regarding the compliance of order of DPI, Thus the documentary evidence namely endorsement made by the accused on the order of DPI which is Ex. PW5/A1, letter written to Head Master Govt.High School Kartarpur Manian, Ex, PW6/A and affidavit ragarding the order of DPI executed by the accused ExPW6/D are sufficient to prove that the above said forged document has been prepared by the accused and produced before Sh. Surinder Singh Head Master Government High School Kartarpur Momian.

12. The limited prayer of the learned State counsel is the judgment of the First Appellate Court directing fresh departmental inquiry should be set aside. He submits that the State proposes to reconsider the plaintiff's case in view of his conviction for offences involving moral turpitude.



13. Per contra, the learned counsel representing the plaintiff submits that no action can be taken against the plaintiff unless a departmental inquiry is held.

14. Clause (a) of second proviso to Article 311 (2) of the Constitution of India does enable the employer to dismiss or remove or reduce in rank an employee on the ground of conduct which led to his conviction on a criminal charge. Clause (a) falls in the exception to the normal rule, which necessitates holding of inquiry, if an employee is required to be dismissed or removed or reduced in rank. In such situation, the punishing authority is required to consider the conduct of the employee which has led to his conviction on a criminal charge. Hence, the regular inquiry is not required to be held. Accordingly, the question is answered in favour of the State. Consequently, RSA-1181-2024 is partly allowed whereas the order dated 03.11.2023 passed in RSA-3476-2023 is recalled and the appeal filed by the plaintiff is dismissed. It shall be open to the State to take steps in accordance with law. The direction of the First Appellate Court directing the State to hold departmental inquiry shall stand set aside.

15. All the pending miscellaneous applications, if any, are also disposed of.

16.05.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)
JUDGE**