

RSA-1571 of 2021

2024:PHHC:138323



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

RSA-1571 of 2021

Date of decision: 18.10.2024

EASI Shamsher Singh

.....Appellant

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Karamveer Singh Banyana, Advocate,
for the appellant.

Mr. Saurabh Mohunta, DAG, Haryana.

NAMIT KUMAR, J.

1. This Regular Second Appeal is directed against the judgment and decree dated 19.07.2016, passed by the Court of learned Civil Judge (Junior Division), Kurukshetra, whereby suit for declaration filed by the appellant-plaintiff has been dismissed as well as against the judgment and decree dated 02.09.2019, passed by the Court of learned Additional District Judge, Kurukshetra, 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 when the plaintiff was working under the administrative control of Superintendent of Police, Kurukshetra, Shri Balbir Singh, the then HPS, DSP, Shahabad

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(Kurukshetra) was directed by the then Superintendent of Police, Kurukshetra, vide letter No. 3224- 28, dated 31.01.2012 to conduct the departmental enquiry against the plaintiff alleging that ASI Ishwar Singh No.608/KNL, Constable Seth Pal No. 974/KKR, E/ASI Shamsher Singh No.51/KKR and Constable Gurcharan Singh No.379/KKR, had entered a complaint of one Gurmit Singh son of Dhyani Singh, resident of Jurasi Mor Plot, Pehowa, District Kurukshetra falsely in the complaint register (5-P) of PS City Thanesar at serial No.145-A, in connivance with each other to put undue pressure on Joginder Kaur wife of Bachan Singh resident of Vashisht Colony, Kurukshetra, in case FIR No.503, dated 18.09.2011, u/s 384, 385, 419, 420 and 120-B IPC, PS City, Thanesar. They had shown gross indiscipline and negligence on their part and had also betrayed the faith of their senior officers by committing this misdeed under a designed conspiracy. It is further averred that the plaintiff had submitted his detailed reply to the charge sheet, vide which, he has narrated the facts and clearly denied any kind of negligence on his part. It is further averred that the department has put aside the reply of the plaintiff and conducted a Regular Department Enquiry; but the enquiry was not conducted as per rules and as such, the worthy Enquiry Officer has submitted the report dated 29.08.2014, prejudice to the facts proved by the plaintiff. It is further averred that thereafter, the department on the basis of the said enquiry report has issued a Show Cause Notice Endst. No.325-26, dated 11.09.2012 to the plaintiff and accordingly, the plaintiff submitted the detailed reply to the Show Cause Notice and as

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such, again he had narrated the true facts to the authority of the department. It is further averred that it is a matter of great surprise that the department has not considered the detailed reply and the impugned order No.41127-33 dated 11.12.2012 was passed by the Superintendent of Police, Kurukshetra, vide which, the punishment of stoppage of five annual increments with permanent effect was imposed on the plaintiff. Against which, plaintiff had filed an appeal/revision under Rule 16.32 of the Punjab Police Rules, 1934, to the Inspector General of Police, Karnal Range, Karnal, who reduced the punishment to that of stoppage of one annual increment with permanent effect, vide order dated 21.08.2013. It is further averred that the plaintiff had preferred an appeal to the Director General of Police, Panchkula; but the said appeal was dismissed vide order dated 23.07.2013. It is further averred that the impugned Departmental Enquiry Report dated 29.08.2014, Show Cause Notice Endst. No.325-26, dated 11.09.2012, impugned order No.41127-33 dated 11.12.2012 by the Superintendent of Police, Kurukshetra, order dated 21.08.2013 passed by the Inspector General of Police, Karnal Range, Karnal and the order dated 23.07.2013 passed by the Director General of Police, Panchkula, are bad in the eyes of law, wrong, baseless, non-speaking, null & void, discriminatory non est, whimsical, inoperative, ineffective, illegal, arbitrary and are liable to be set aside and the plaintiff is legally and lawfully entitled to get restored his one annual increment for all intents and purposes alongwith all legal and consequential benefits and to get his pay fixed



properly and to get the entire arrears thereof, alongwith interest at the rate of 18% per annum.

3. The trial Court after appreciating the evidence on record and hearing the learned counsel for the parties, dismissed the suit of the plaintiff vide judgment and decree dated 19.07.2016. Aggrieved against the judgment and decree of the trial Court, plaintiff preferred an appeal, which has also been dismissed by the lower appellate Court vide judgment and decree dated 02.09.2019. Hence, present Regular Second Appeal.

4. 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 the enquiry officer has not conducted the enquiry as per law and settled principles of natural justice have been ignored as he has not considered the evidence of the defence witnesses produced by the appellant. He further contended that punishing authority has not considered the reply of the appellant and punished the appellant in an illegal manner as none of the prosecution witnesses has been able to prove anything against the appellant. He further contended that appellant has been held guilty on the basis of presumption only as it is a case of no evidence. He further contended that the judgments and decrees of the Courts, below being perverse, are liable to be set aside.

5. *Per contra*, learned State counsel has contended that suit of the appellant-plaintiff was rightly dismissed by both the Courts below. He further submitted that proper opportunity of hearing has



been granted to the appellant in the departmental enquiry and proper procedure has been followed by the enquiry officer and the principles of natural justice have also been followed. 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.

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

7. The perusal of the record shows that copy of the charges along with list of witnesses and copies of documents were supplied to the appellant and sufficient time was granted to him for thinking over the matter. On 17.2.2012, the appellant got recorded his statement in question-answer form and pleaded not guilty of the charges and intended to produce his defence at the appropriate time. Appellant cross-examined the witnesses at length and also examined the defence witnesses. Thus proper opportunity of hearing has been granted to the appellant in the departmental enquiry and proper procedure has been followed by the enquiry officer and principles of natural justice have also been followed. It was held in the inquiry that the appellant was MHC at that time and the wrong entry was made by the appellant just to give undue benefit to one Gurmeet Singh.

8. The Hon'ble Supreme Court in ***Union of India & another 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.

9. 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 the inquiry officer is based on some evidence, then the court cannot re-appreciate the evidence or weigh the same like the appellate authority. So long as there is some evidence in support of the conclusion arrived at by the departmental authority, the same has to be sustained. Some defects in the inquiry have to be pointed out before the civil court can interfere with the punishment order. Furthermore, if defect is pointed out then the delinquent employee has to show as to what prejudice has caused to him on account of the said defect.



10. 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.

11. 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 Nalwaya 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:*

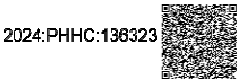
"6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic inquiry, nor interfere on the ground



*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, 2001(1) SCC 416."***

12. Concurrent findings of facts 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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13. 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.

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

18.10.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No