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

(205)

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Date of Decision: - 19.08.2025

Mohan Singh (deceased) through LRs**....Appellant****Versus****State of Punjab and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Didar Singh, Advocate, and
Mr. S.S. Rangi, Advocate
for the appellant.

Mr. Surya Kumar, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. Present Regular Second Appeal has been filed under Section 41 of the Punjab Courts Act, 1918 by the present appellant-plaintiff. Challenge in the present appeal is to the judgment and decree dated 25.04.1998 vide which the 1st Appellate Court had allowed the appeal filed by the respondents/defendants and had set aside the judgment and decree dated 04.09.1995 passed by the trial Court and had dismissed the suit filed by the plaintiff.

ARGUMENTS ON BEHALF OF THE APPELLANT

2. Learned counsel for the appellant has submitted that the trial Court after considering all the aspects had decreed the suit of the



plaintiff/present appellant and the 1st Appellate Court on the basis of surmises and conjectures set aside the said judgment and decree dated 04.09.1995. It is submitted that the judgment and decree dated 25.04.1998 passed by the 1st Appellate Court deserves to be set aside and the judgment of the trial Court dated 04.09.1995 deserves to be upheld. It is argued that with respect to the charge of absence against the present appellant from 29.11.1982 to 30.12.1983, it was the stand of the present appellant even before the inquiry officer that the present appellant was not well and in support of the said plea, he had produced on record the medical certificate issued by Dr. C.L. Wadhwa dated 19.03.1984 to show that the present appellant was not well and it was for the said reason he was absent. It is submitted that the said evidence had not been duly taken into consideration by the inquiry officer. It is further submitted that the present plaintiff had repeatedly submitted letters through post seeking leave but the said aspect had not been duly considered in the inquiry report as well as by the 1st Appellate Court. It is argued that the finding of the inquiry officer as well as of the 1st Appellate Court on the said aspect is based on no evidence and thus, the said finding deserves to be set aside in the present civil proceedings. It is further prayed that in view of the same, the inquiry report (Ex.D3) as well as the order of the Collector dated 07.01.1987 and the order of the Commissioner dated 05.12.1990 also deserve to be set aside and the suit of the plaintiff deserves to be decreed.

ARGUMENTS ON BEHALF OF THE RESPONDENTS



3. Learned counsel for the respondents, on the other hand, has opposed the present appeal and has submitted that in the present case, due procedure in accordance with law had been followed by the inquiry officer and three charges had been duly proved and the inquiry officer had considered every aspect of the matter and had thereafter submitted his inquiry report (Ex.D3). It is further stated that the punishing authority after taking into consideration all the aspects had ordered the dismissal of the present appellant from services vide order dated 07.01.1987 and even the appellate authority vide order dated 05.12.1990 dismissed the appeal filed by the present appellant. It is argued that the plea that the present appellant was unwell for a period of more than one year is not proved on record and that no doctor, much less, Dr. C.L. Wadhwa had been examined either in the inquiry proceedings or before the trial Court. It is submitted that the medical certificate (Ex.P1) produced on record would also not in any way further the case of the present appellant as even as per the said certificate which was prepared on 19.03.1984, the illness was stated to be from 01.04.1983 to 19.03.1984 and there was no further evidence led to show that the present appellant was ill before the said period. It is submitted that it is a matter of settled law that the Court is not to sit as a Court of appeal or re-appreciate the entire evidence over a fact finding inquiry report and the orders passed by the authorities. It is submitted that in the present case, it is not the case of the present appellant that there was any violation of rules or procedure while holding the inquiry and it is thus prayed that the present appeal deserves to be



dismissed.

ANALYSIS AND FINDINGS

4. This Court has heard learned counsel for the parties and has perused the paper-book and is of the opinion that the present appeal is meritless and deserves to be dismissed and the judgment of the 1st Appellate Court is in accordance with law and deserves to be upheld for the reasons stated hereinafter.

5. It is not in dispute that the present appellant who was initially appointed as a *Patwari* was charged on four counts and inquiry officer was appointed to give a fact finding report with respect to the said charges. It is also not in dispute that the inquiry officer vide his detailed report, which had been duly exhibited as Ex.D3, had held the present appellant guilty of three specific charges. The true translation of the said inquiry report (Ex.D3) in which reference has been made to the said three charges is reproduced hereinbelow: -

“1) Whether you were transferred in the Department of Canal (S.Y.L) vide order dated 29.11.82 of the then Collector, but did not come present till 30.12.83. Thus did not comply the above-mentioned order deliberately for more than one year.

2) Whether you remained absent from your duty w.e.f. 29.11.82 to 30.12.83. No leave was sent by you to this office during this period.

3) Whether you were sent back to this office after you were relieved vide letter no. 3681/2-E, dated 02.01.84 of the Land Acquisition Officer (S.Y.L.). You presented this order dated 17.01.84 before the then District Revenue Officer, meaning thereby; you remained absent w.e.f. 02.1.84 to 17.01.84.”

One of the charges i.e., charge number 3, against the present



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appellant was that vide order dated 02.01.1984, the present appellant was relieved of his duty by the Land Acquisition Officer (SYL Canal Project) and was to report to the office of the Deputy Commissioner but the present appellant did not join the duty from 02.01.1984 to 17.01.1984 and joined duty on 18.01.1984. The inquiry officer under the said charge observed that it had been duly proved that the present appellant had absented himself from 02.01.1984 to 17.01.1984 and the plea raised by the present appellant with respect to the said charge to the effect that he was not well, was not proved. It was further observed that with respect to the said period, even as per the statement of the appellant recorded during the course of inquiry, he had admitted that he had not given any leave application. The true translation of the inquiry report with respect to the findings on charge No.3 is reproduced hereinbelow: -

“Allegation no.3

6) *The allegation has been leveled against Patwari that the Patwari has been relieved vide letter no. 3681/2E, dated 02-01-84 of Land Acquisition Officer, S.Y.L. Office and sent back to the D.G. Office, but he produced his Attendance Report on 18-01-84 before the then District Revenue Officer. In this way, he remained absent from 02-01-84 to 17-01-84. Sh. Ajeet Singh Kang, District Revenue Officer at that time was produced by department to prove this allegation and he told that Mohan Singh, Patwari had produced abovesaid letter dated 18-01-84 before them. **Mohan Singh, Patwari told in this regard that on 02-01-84, he was relieved from S.Y.L. office in writing and from 03-01-84 to 15-01-84 he was ill and he presented his attendance report to the District Revenue Officer, Ludhiana on 18.1.84. But, he admitted in his statement that during this time, he kept on taking medicines in Raikot from his village Paut. But, he did not submit any leave to the Collector, Ludhiana about his illness.***



However, the office of Deputy Commissioner, Ludhiana comes before Raikot while coming to Raikot from his village Paut. In connection with relieving the Patwari, the letter No.3681/2-E dated 2-1-84 of office of SYL was perused. On perusing, it is found that the 'Patwari' presented this letter before the District Revenue Officer, Ludhiana on 18-1-84. It is clearly reflects that Mohan Singh (Patwari) remained absent from 2-1-84 to 17-1-84. Therefore, this allegation is proved against Mohan Singh (Patwari)."

Before this Court, learned counsel for the appellant has not been able to refer to any material to show that for the said period i.e. from 02.01.1984 to 17.01.1984, the present plaintiff/appellant had submitted any application for leave.

6. Charge Nos.1 and 2 against the present appellant were to the effect that the present appellant on 29.11.1982 was transferred to SYL Canal Project by the Collector but the present appellant joined duty on 30.12.1983 and thus, he disobeyed the order of the authority and also remained absent without leave from 29.11.1982 to 30.12.1983 for a period of more than one year. With respect to the plea of the present appellant before the inquiry officer to the effect that he was not well and had repeatedly applied for medical leave by submitting letters through post, the inquiry officer after taking into consideration the entire documents and also a letter issued by the SYL to the Deputy Commissioner, in which there was no reference of any such medical leave, observed that both the charges against the present appellant were proved. It was further observed that from the facts it was apparent that no leave was sent by the present appellant to the concerned office. It was



thus found that the present appellant had willfully absented himself from 29.11.1982 to 30.12.1983 and had also not complied with the order passed by the authority directing him to join the SYL Canal Project.

7. It is not disputed before this Court that no doctor was produced by the present appellant in the said inquiry proceedings or even before the trial Court to even remotely show that he was ill for the entire period from 29.11.1982 to 30.12.1983 as claimed by the present appellant. It would be further relevant to note that the medical certificate, which had been exhibited as Ex.P1 and which as per the case of the present appellant was produced during the course of inquiry, does not inspire confidence nor does it further the case of the present appellant. A perusal of the said certificate would show that the same had been issued by a private doctor i.e. Dr. C.L. Wadhwa, who had neither been examined in the inquiry proceedings nor before the trial Court. The said certificate is dated 19.03.1984 and states that the present appellant was suffering from Bronchitis and was ill from 01.04.1983 till 19.03.1984. There is nothing to show as to on what basis the said doctor had been able to ascertain about the medical condition of the present appellant from 01.04.1983 when the certificate was issued on 19.03.1984. Admittedly, no other medical evidence was produced on record either before the inquiry officer or before the trial Court to show that the present appellant was unwell from 01.04.1983 to 19.03.1984, as had been mentioned in the said medical certificate (Ex.P1). Even in case the said certificate is taken on its face value, then also, there is nothing on record to show that from

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29.11.1982 up to 30.12.1983, the present appellant was not well and could not join the SYL Canal Project. Moreover, it is hard to believe without there being any further evidence/details, that a person allegedly suffering from “Bronchitis” would not be able to join duty for a period of more than one year i.e. from 29.11.1982 to 30.12.1983, in addition to the further period of absence from 02.01.1984 to 17.01.1984. Admittedly, no leave for the period 29.11.1982 to 30.12.1983 and 02.01.1984 to 17.01.1984 was sanctioned. It is surprising that the present appellant continued to be on leave for a period of more than one year without even confirming from the concerned office as to whether the leave for any period was ever sanctioned.

8. It is not in dispute that the present appellant was given due opportunities before the inquiry officer to present his case. After the inquiry report had been submitted, even the further proceedings before the department were in accordance with the settled rules and procedure. It is also not in dispute that a show cause notice was issued to the present appellant and even a personal hearing was given to him by the Collector, Ludhiana and the Collector, Ludhiana, vide order dated 07.01.1987 dismissed the present appellant from service. In the said order, the inquiry report against the present appellant and the fact that charge Nos.1, 2 and 3 stood proved against him were taken note of and it was further observed that the present appellant was not able to give any plausible explanation to the charges proved against him and accordingly, the punishment of dismissal from service was passed. In the said order dated 07.01.1987 it



was also observed that a show cause notice was issued to the appellant as to why he should not be dismissed from service and a reply was filed by the present appellant and the same was thoroughly perused. The present appellant filed an appeal against the said order dated 07.01.1987 before the Commissioner, Patiala, Division Patiala and the Commissioner, Patiala, Division Patiala, vide order dated 05.12.1990 (Ex.P14) dismissed the plaintiff's appeal. A perusal of the said order dated 05.12.1990 would show that it was specifically observed by the Commissioner, Patiala that he had gone through the appeal filed by the present appellant and also the reply given by the Deputy Commissioner, Ludhiana and had further observed that the present appellant had disobeyed the orders passed with respect to his transfer and did not join the place of his posting(s) and was also absent from duty for a period of more than one year without leave and thus, it was a case of severe indiscipline on his part and thus, the appeal filed by the present appellant was found to be not meritorious.

9. In the year 1992, the present appellant filed the suit in which challenge was made to the order dated 07.01.1987 passed by the Collector, Ludhiana as well as the order dated 05.12.1990 passed by the Commissioner, Patiala. The said suit was decreed by the trial Court, vide judgment dated 04.09.1995. In para 8 of the said judgment, apart from other observations, one of the observations made by the trial Court was to the effect that in such circumstances of absence without sanctioned leave, a minor penalty could have been imposed. The appeal filed by the respondents/defendants was allowed by the 1st Appellate Authority vide



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judgment and decree dated 25.04.1998. While allowing the said appeal, it was observed by the 1st Appellate Court that it was not the case of the plaintiff/appellant that the inquiry had not been conducted as per the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 or any other rules had been violated and that it was a matter of settled law that Civil Courts are not to sit as a Court of Appeal over the report of the inquiry officer and the orders passed by the Competent Authority. It was further observed that a regular departmental inquiry was held in the present case and in the said inquiry, after recording the statements of the witnesses and after giving due opportunities to the present appellant to lead defence evidence, the inquiry officer had submitted his inquiry report (Ex.D3) and had found the present appellant to be guilty of charge Nos.1, 2 and 3 and thereafter, show cause notice was issued to the present appellant and a reply was filed by him to the same and even personal hearing was given to him and it was thereafter the order dated 07.01.1987 was passed. The said judgment of the 1st Appellate Court is in accordance with law and deserves to be upheld.

10. The Hon'ble Supreme Court in its judgment dated 01.11.1995 in the case titled as “**B.C. Chaturvedi Vs. Union of India and others**”, ***along with connected matter, reported as 1995(6) SCC 749***, had observed that judicial review is not an appeal from a decision and the power of judicial review is meant to determine that whether the inquiry was held by the competent officer in accordance with the principles of natural justice and whether the rules were duly complied with and that the



Court/Tribunal in its power of judicial review does not act as an appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the basis of the said evidence. It was further held that the adequacy of evidence cannot be permitted to be canvassed before the Court/Tribunal while challenging the inquiry and the orders passed by the disciplinary authority. It was also held that the disciplinary authority and on appeal the appellate authority, being fact finding authorities, have the power to impose appropriate punishment in order to maintain discipline and the High Court/Tribunal while exercising its power of judicial review cannot substitute its own conclusion on penalty/punishment and impose the same, unless the punishment imposed by the disciplinary authority or the appellate court shocks the conscience of the High Court/Tribunal.

11. In the present case, no law has been cited by the learned counsel for the appellant to show that the Civil Court or this Court while adjudicating the Regular Second Appeal of the present appellant can re-examine the evidence led before the inquiry officer so as to come to a conclusion that on the re-examination of the same, the view taken in the inquiry report is not the correct view. In the present case, from the above said facts, it is apparent that the present case is not a case where the punishment imposed would shock the conscience of the Court. Once in the inquiry, which was conducted in accordance with law and the applicable rules, it was found that the present appellant had not followed the orders of the authorities and had not joined the SYL Canal Project and

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in fact had unauthorizedly remained absent from 29.11.1982 to 30.12.1983 and thereafter again had unauthorizedly remained absent from 02.01.1984 to 17.01.1984, the punishment awarded can neither be stated to be excessive nor disproportionate; rather the plea raised by the plaintiff/present appellant of him being unwell for the above-said period of absence and reliance on the medical certificate (Ex.P1), apart from not being duly proved on record, does not inspire confidence. It would also be relevant to note that the present appeal is of year 1998 and a perusal of the zimni orders would show that there is no interim order in favour of the present appellant and the present appellant had died and it is his legal representatives who are further pursuing the case.

12. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the judgment passed by the 1st Appellate Court is in accordance with law and does not suffer from any illegality or perversity nor is against law and thus, deserves to be upheld and is accordingly upheld and the present appeal being meritless, deserves to be dismissed and is accordingly dismissed.

August 19, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes