



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

202

RSA-3216-2001 (O&M) and
COCP-2786-2013**Date of Decision:** January 31, 2025Pepsu Road Transport Corporation Patiala and another**Appellant(s)****Vs.**

Zila Singh

.....Respondent(s)**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Anupam Singla, Sr. Advocate with
Mr. Lalit Goyal, Advocate
for the appellant in RSA-3216-2001 and
for respondent in COCP-2786-2013

Mr. Amandeep Singh, Advocate for
Mr. Dhirinder Chopra, Advocate (through VC)
for the respondent.

SUDEEPTI SHARMA J. (ORAL)

The present Regular Second Appeal is preferred against the judgment and decree 04.04.2001 passed by Ld. Additional District Judge, Patiala, vide which the appeal filed by the respondent, was allowed and the judgment and decree dated 30.04.1997 passed by Ld. Civil Judge, Jr. Division, Patiala, was set aside.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that the respondent-Zile Singh was working as Fitter in Central Workshop, Pepsu Road Transport Corporation, Patiala (PRTC, Patiala) under the appellant. Vide the order dated 29.10.1992, he was suspended and was charge-sheeted on 15.01.1993 while working as Assistant Fitter containing allegations that on 29.10.1992, he was caught red



handed by Sh. S.P. Singh, Chowkidar/Gate Keeper in the presence of Sh. Sawan Singh Sekhon, Sub Inspector, while leaving the workshop, he was having Copper Shaft Bushes, Copper Gear Bushes, Copper Nut Bolts etc. in his tiffin box, which was hanging on his bicycle. He submitted reply to the charge-sheet and denied the allegations. The enquiry officer was appointed for conducting the enquiry. On the basis of enquiry report, a show-cause notice was served upon the respondent purposing termination of his services. Reply to the show-cause notice was given by the respondent, thereafter respondent was found to be innocent by giving him benefit of doubt by the Enquiry Officer.

3. The competent authority by taking lenient view passed the order dated 28.07.1993 stopping his two annual increments with cumulative effect instead of termination of his services. He filed departmental appeal which was dismissed vide order dated 10.01.1994. The respondent filed civil suit challenging the orders dated 28.07.1993 and 10.01.1994. The civil suit filed by him was dismissed on 30.04.1997 by Ld. Civil Judge (Jr. Division), Patiala. He filed an appeal against the judgment and decree dated 30.04.1997 passed by Ld. Civil Judge (Jr. Division), Patiala, which was allowed vide judgment and decree dated 04.04.2001 passed by Additional District Judge, Patiala. Hence, the present Regular Second Appeal.

SUBMISSION OF LEARNED COUNSELS FOR THE PARTIES

4. Learned counsel for the appellants contends that the Ld. First Appellate Court totally ignored the evidence on record and allowed the appeal filed by the respondent.

5. Per contra, learned counsel for the respondent contends that the appeal filed by the respondent has rightly been allowed.



6. I have heard learned counsel for the parties and perused the whole record of this case.

7. The relevant portion of the judgment and decree dated 04.04.2001 passed by Ld. First Appellate Court (Additional District Judge, Patiala) is reproduced as under:-

“10. After having considered the rival submissions and in the light of the record of the case, I am of the considered opinion that this appeal is bound to succeed. The minute perusal of the record shows that it is not disputed that a charge-sheet containing memorandum of allegations, Ex. P10, was served upon the plaintiff, which culminated into an enquiry report Ex. P7 accompanied by a supplementary report Ex. P7/A, on the basis of which a show cause notice Ex. P6 was served proposing termination of his services which was duly replied by him vide reply Ex.P5. The impugned order dated 28.7.93, copy Ex.P1, was passed ordering stoppage of two annual increments with cumulative effect. An appeal preferred against that order was also dismissed vide order dated 10.1.94, copy Ex. P2.

11. There is no denying the fact that stoppage of increments with cumulative effect is a major punishment which requires that before passing such an order, due process of law has to be followed. Of course, the respondent Corporation before passing the impugned orders had followed the entire procedure as prescribed in the law. Due opportunity has also been granted to the plaintiff during the course of enquiry as well as after that. The grudge of the appellant-plaintiff is that since the allegations levelled against him were not proved the impugned order of punishment would not have been passed against him. The



learned trial court has rejected his contention by alleging that sphere of the civil court starts only when the impugned order is found to have been passed in violation of specific rules or procedural law or rules of natural justice. Otherwise, the findings of the Enquiry Officer on facts cannot be interfered by the civil court. It was on this score that the claim of the appellant-plaintiff was rejected.

12. But the reasoning adopted by the learned trial court is not correct on the face of the record of the case. The perusal of the enquiry report shows that the enquiry officer in his report, copy Ex. P7, had opined that for reaching out to a right conclusion regarding the allegations against the plaintiff, report of Finger Prints Expert was required and without that report matter could not be proceeded further. It means that he did not reach the definite conclusion regarding allegations against him. But in his supplementary observations made on 11.5.93, which are lying attached with the report and are exhibited as P7/A and P8, he while giving benefit of doubt to the plaintiff had also stated that he was also responsible for the recovery alleged to have been made from him. Such type of observations are un-called for when a definite enquiry report was previously given on 23.4.93. It appears that the department wanted to proceed against the plaintiff and for that it made the enquiry officer to made these observations for issuing a show cause notice for proceeding against the plaintiff. From this, it is quite evident that there was no evidence on the record which may lead the court to the conclusion that the alleged charge against the plaintiff stood proved against him.

x x x x x x

13. As above discussed, the finding of the Enquiry Officer are not based on evidence, the allegations against



the plaintiff were not proved and, therefore, the consequential punishment awarded to the plaintiff is not sustainable in law and call for interference. In the result, this appeal succeeds and is accordingly allowed. The impugned order dated 28.7.93, copy Ex. P1 and order dated 10.1.94, copy Ex. P2, passed in appeal are hereby quashed. The appellant-plaintiff is hereby declared entitled to all consequential benefits.”

8. A perusal of the above shows that Ld. First Appellate Court has though observed that before imposing the major punishment, the appellant followed proper procedure as laid down by the law but on the ground that the finding of enquiry office are not based on the evidence, allowed the appeal filed by the respondent. Further as per the record, the respondent himself admitted his guilt. Further the articles of theft were found in the tiffin of respondent and thorough enquiry after issuing of show cause notice calling for reply and giving him personal hearing was conducted. After that the enquiry officer gave the enquiry report. By taking lenient view, instead of punishment of termination from service, punishment of stoppage of two annual increments with cumulative effects was ordered. In the record, the statement of respondent is very much there wherein he admitted the theft which is signed by him. A perusal of the record further shows that the respondent was caught red handed by Sh. S.P. Singh, Chowkidar/Gate Keeper in the presence of Sh. Sawan Singh Sekhon, Sub Inspector and statement of both Sh. S.P. Singh, Chowkidar/Gate Keeper and Sh. Sawan Singh Sekhon, Sub Inspector proves the allegations in the charge-sheet. Both of them were cross-examined as well.



9. A perusal of the record further shows that the respondent was caught red handed by Sh. S.P. Singh, Chowkidar/Gate Keeper in the presence of Sh. Sawan Singh Sekhon, Sub Inspector, while leaving the workshop and he was having Cooper Shaft Bushes, Copper Nut Bolts etc. in his tiffin box, which was hanging on his bicycle. He had to prove his innocence whereas in his statement on record, he admitted the allegations.

10. In view of the above, since the first Appellate Court while passing the judgment and decree dated 04.04.2001 did not appreciate the evidence on record which proves the guilt of the respondent. Therefore, the same is liable to be set aside. The present appeal is ***allowed***. Judgment and decree dated 04.04.2001 passed by the Ld. First appellate Court is set aside and the Judgment and decree dated 30.04.1997 passed by Ld. Civil Judge (Jr. Division), Patiala, is affirmed.

11. Decree sheet be drawn accordingly.

12. All the pending applications also stand disposed of.

COCP-2786-2013

Since RSA-3216-2001 is allowed as such COCP is dismissed and the rule is discharged.

A photocopy of this order be placed on the file of other connected case(s).

(SUDEEPTI SHARMA)
JUDGE

January 31, 2025
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Whether speaking/reasoned:	Speaking
Whether reportable	Yes / No