

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1845-2013 (O&M)
Reserved on 03.05.2025
Pronounced on 31.07.2025

Sukhdev Singh

... Appellant

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Suvir Sidhu, Advocate and
Mr. Vasu Shandilya, Advocate for the appellant

Mr. Jastej Singh, Addl. AG Punjab

Sandeep Moudgil, J.

(1). The present regular second appeal has been preferred assailing the judgment and decree dated 08.11.2012 passed by the Addl. District Judge, Muktsar as well as the judgment and decree dated 12.05.2011 passed by the Court of Civil Judge (Senior Division), Muktsar dismissing the suit for declaration filed by the appellant.

(2). Briefly stated that the appellant-plaintiff was working as Conductor in Punjab Roadways Depot, Muktsar. A charge-sheet was issued to the appellant-plaintiff that he had misappropriated certain amounts followed by a regular enquiry. The enquiry officer was appointed and without issuing any notice to the appellant-plaintiff nor supplying the details of the allegations and imputation of misappropriation, he was dismissed from service vide order dated 05.09.2003. Even the appeal against the order of dismissal preferred by the appellant was dismissed vide order dated 13.04.2005 passed by the Secretary, Transport Department, Punjab, Chandigarh.

(3). The appellant filed a suit for declaration on 21.03.2007 alleging that the order dated 05.09.2003 passed by the Director, State Transport, Punjab, Chandigarh, vide which the services of appellant-plaintiff were dismissed, and the order dated 13.04.2005 passed by the Secretary, Transport Department, Punjab, Chandigarh, dismissing the appeal of the appellant-plaintiff against the order of dismissal dated 05.09.2003, being illegal, null and void and against the provisions of Punjab Civil Services (Punishment & Appeal) Rules, 1970 (in short the " 1970 Rules").

(4). The trial court framed the following issues based on the pleadings of the parties:-

1. Whether the Dismissal order dated 05.09.03 and subsequent order dated 13.04.05 are illegal, null and void and against the Service Rules and is not binding upon the plaintiff? OPP
2. Whether the Plaintiff is entitled to declaration, as prayed for? OPP
3. Whether the Plaintiff has no cause action to file suit? OPD
4. Whether this Court has lacks territorial jurisdiction to entertain and try the suit? OPD
5. Relief

(5). It was the case of the appellant-plaintiff before the trial court that he was not permitted to avail the assistance of a legal practitioner and that during enquiry proceedings, he was not allowed to put forth his case and even his statement was not recorded under Rule 8(18) of the 1970 Rules.

(6). The trial court observed that the appellant-plaintiff despite availing several opportunities, himself left the enquiry proceedings and as

such, the enquiry officer had no option but to proceed against him ex parte and submit enquiry report. So much so, the entire proceedings were conducted in his presence; he was given opportunity of personal hearing on 27.08.2003 and was even allowed to submit his reply to the notice under Rule 5(v to iv) of the 1970 Rules besides he was also allowed to take assistance of the co-employee besides allowing him to lead his defence evidence but he chose not to participate in the enquiry proceedings intentionally and deliberately. The trial court also observed that the punishing authority proposed to impose a major penalty of dismissal from service.

(7). Moreso, the appellate authority – the Secretary, Transport Department, Punjab passed a detailed order applying his mind independent of the findings returned by the Director, State Transport. It was also observed by the trial court that the scope of civil court is limited only to the extent whether the enquiry is conducted in accordance with the provisions of 1970 Rules or not but it cannot sit on the orders of the punishing authority and act as an appellate Court. Pertinently, the trial court found no fault in the procedure adopted by the enquiry officer and as such, dismissed the suit filed by the appellant-plaintiff.

(8). In the civil appeal, the appellant challenged the legality and validity of the impugned orders highlighting the fact that the punishing authority for imposing major punishment is the Director, State Transport but the charge-sheet has been issued by the General Manager which is in contravention to the provisions contained in the Punjab Roadways (Operational) State Services Class III Rules, 1977. The appellate Court repelled the said contention of appellant by observing that General Manager

is also a punishing authority and there cannot be any bar for imposing minor penalty despite issuance of the charge-sheet and furthermore, no prejudice has occurred to the appellant as after the receipt of the findings of the enquiry officer, the report was sent by the General Manager, Punjab Roadways Depot, Muktsar to the Director, State Transport, Punjab for necessary action and as such, it cannot be said that the charge-sheet has been issued by an incompetent authority which vitiates the proceedings. The appellate Court thus considered the material on record and observed that the enquiry has been conducted and punishment has been imposed in compliance with the Rules and procedures and after following the principles of natural justice and found no illegality or infirmity in the judgment and decree passed by the trial court.

(9). Heard learned counsel for the parties and gone through the record.

(10). Learned courts below observed that there is no controversy between the parties to the effect that the appellant-plaintiff was working as conductor in Punjab Roadways Depot, Muktsar, and admittedly, charge-sheet was issued to the appellant-plaintiff and an inquiry was conducted. The inquiry officer held the appellant-plaintiff guilty of the charges leveled against him and thereafter by virtue of the order dated 05.09.2003, the appellant-plaintiff was dismissed from service. The appeal filed by the appellant-plaintiff has also been dismissed.

(11). Before the courts below the legality and validity of the impugned orders have been challenged on the score that the punishing authority for imposing major punishment is the Director, State Transport, but the charge-sheet has been issued by the General Manager inasmuch as in

terms of the Punjab Roadways (Operational) State Service Class III Rules, 1977, the punishing authority for imposing major penalty is Director, State Transport. It may be mentioned here that the General Manager is the punishing authority for imposing the minor penalty and the Director State transport, Punjab, is the punishing authority for imposing major penalty and as such, it was rightly held that it cannot be disputed that the General Manager is also a punishing authority and there cannot be any bar for imposing minor penalty despite issuance of the charge-sheet inasmuch as even if, the procedure as prescribed in Rule 8 of Punjab Civil Service (Punishment and Appeal) Rules, 1970, has been followed, it cannot be termed to be a ground to debar the punishing authority from imposing the minor penalty. On the receipt of the findings of the inquiry officer, the inquiry report was sent by the General Manager, Punjab Roadways Depot, Muktsar, to the Director State Transport, Punjab, Chandigarh for necessary action. Furthermore, it is the finding of both the courts below that as per the material on record, it does not indicate that any prejudice has occurred to the appellant-plaintiff on the score that the charge-sheet has been issued by the General Manager in the instant case. Consequently, it cannot be said that the charge-sheet has been issued by an incompetent authority which vitiates the proceedings.

(12). The appellant-plaintiff has also sought to dispute the legality and validity of the inquiry proceedings on the score that copies of the documents were not supplied to him and proper opportunity of defence was not afforded to him. In this regard, it may be mentioned here that while serving the charge-sheet upon the appellant-plaintiff, he was also apprised of his right to inspect

the documents relevant with the inquiry and in the reply, the appellant-plaintiff had not raised any request for providing the documents to him and as such, it cannot be said that the copies of the documents were not supplied to the appellant-plaintiff and he was not apprised of his right to take the assistance of a co-worker.

(13). The courts below rightly observed that it has been pointed out by the counsel for the appellant-plaintiff that the statement of the appellant-plaintiff under Rule 8(18) of the Punjab Civil Services (Punishment and Appeal) Rules 1970 has not been recorded whereas a perusal of the proceedings recorded by the inquiry officer reveals that he had not appeared before the inquiry officer on 25.09.2000 and subsequent dates and that being so, the appellant-plaintiff had not participated during the course of inquiry despite having the knowledge of the same.

(14). It has been further observed that the material on record indicates that the inquiry has been conducted and punishment has been imposed in compliance with the rules and procedures and principles of natural justice have also been followed in the instant case. In these circumstances, the impugned judgments passed by both the courts below cannot be termed to be illegal, null and void.

(15). In view of the above discussion, there is no illegality or infirmity in the judgments passed by the courts below. Consequently, this appeal fails and is dismissed accordingly.

31.07.2025

V.Vishal

1. *Whether speaking/reasoned?*

2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No

Yes/No