



RSA-3338 & 3736-2013 (O&M)

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

1. **RSA-3338-2013 (O&M)**

National Institute of Technology and anotherAppellants

Vs.

Raj KumarRespondent

2. **RSA-3736-2013 (O&M)**

Raj KumarAppellant

Vs.

National Institute of Technology and anotherRespondents

Reserved on : 17.09.2025

Pronounced on : 11.11.2025

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. A.S.Virk, Advocate,
for the appellants (in RSA-3338-2013)
for the respondents (in RSA-3736-2013)

Mr. Karamveer Singh Banyana, Advocate,
for the appellant (in RSA-3736-2013)
for the respondent (in RSA-3338-2013)

SUDEEPTI SHARMA J.

1. Vide this common order, above two regular second appeals are being decided as common issues and facts are involved therein. For convenience, facts/annexures are being referred from **RSA-3338-2013**.

2. The present Regular Second Appeals are preferred against the judgment and decree dated 23.02.2013 passed by learned First Additional



District Judge, Kurukshetra, whereby appeal filed by the appellants against judgment and decree dated 19.12.2012 passed by the learned Civil Judge (Junior Division), Kurukshetra, was partly allowed.

BRIEF FACTS

3. Brief facts of the case, as pleaded in the civil suit, are that respondent was posted as Accounts Clerk at National Institute of Technology (NIT), Deemed University, Kurukshetra. On 31.03.2006, charge-sheet was issued to the respondent by the appellants on the allegations of creating nuisance by misbehaving and quarreling with officials and officers, willful absence from duty from 24.03.2004 to 11.04.2004, misbehaving with the Branch Officer by shouting in the chamber of the Registrar, nuisance in the office by abusing, intention to beat the Deputy Registrar with slap and took chair to assault him, not working in the Store Sections and loss of property of the Institute and created danger to nearby residents in campus. Respondent submitted a detailed reply, however, he was placed under suspension, vide order dated 04.02.2006. Thereafter, he was reinstated, vide order dated 18.07.2007. Dr. S.S.Murthy was the Inquiry Officer and Dr. Garg Dixit was the Presiding Officer. Thereafter, inquiry report dated 30.04.2007 was submitted and on the basis of the report, office order dated 18.07.2007 was passed by the Registrar. Respondent filed civil suit challenging the order dated 18.07.2007 passed by the Registrar, which was decreed in his favour, vide judgment and decree dated 19.12.2012 passed by



the learned Civil Judge (Junior Division), Kurukshetra. Appellants filed appeal against the said judgment and decree dated 19.12.2012, which was partly allowed by the learned First Additional District Judge, Kurukshetra, vide its judgment and decree dated 23.02.2013. Hence, the present regular second appeals.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

4. Learned counsel for the appellants contends that both the Courts, without considering the relevant material, documentary as well as oral, decreed the suit of the respondent. He, therefore, prays that the present appeal be allowed.

5. Per contra, learned counsel for the respondent submits that civil suit filed by the respondent was rightly decreed in his favour, but the learned First Additional District Judge, Kurukshetra, has wrongly partly allowed the appeal filed by the appellants, for which, the respondent has filed RSA-3736-2013 titled as 'Raj Kumar Vs. National Institute of Technology and another'. Therefore, he prays that the present appeal be dismissed.

6. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.

7. Vide order dated 18.07.2007, respondent was reinstated. It would be apposite to reproduce the order dated 18.07.2007, which reads as under:-

“Sh. Raj Kumar, Accounts Clerk of this Institute was put under suspension on 04.02.2006 vide office order



No.GA-II/PF/1221-25 dated 04.02.2006 on account of various acts of omission & Commission.

On the basis of reports of Inquiry Officer, Medical Board and undertakings submitted by Sh. Raj Kumar, Accounts Clerk (Under Suspension), a lenient view has been taken by the Hon'ble Director.

In view of the above, Sh. Raj Kumar, Accounts Clerk is hereby reinstated with immediate effect subject to the following conditions:-

- 1. The period spent by Sh. Raj Kumar under suspension will be treated as 'non-duty' for all purposes. However, the subsistence allowance will be allowed to him only for the period spent during suspension, as admissible under the rules.*
- 2. Sh. Raj Kumar is hereby warned to be careful in future. A copy of the warning is being placed in his ACRs file.*
- 3. The work and conduct of Sh. Raj Kumar will be observed for the next two years.*

The respondent is aggrieved by condition No.1, as referred to above, whereby the period spent under suspension was treated as non-duty for all purposes.

8. A perusal of the record shows that the respondent was suspended on 04.02.2006. Charge-sheet was issued on 31.03.2006 and reply to the charge-sheet was submitted on 31.03.2006, which are exhibited as Ex.P2, P3 and P4, respectively. The respondent was suspended vide order dated 04.02.2006 from the post of Accounts Clerk on account of various acts of omissions and commissions, including the act done by him on 03.02.2006 at his residence, whereby he has damaged the property of the Institute by putting it on fire.



9. The grievance of the respondent in the civil suit was that he was suspended, charge-sheeted and reinstated after imposing minor punishment of warning. Then the suspension period cannot be treated as non-duty period. Even the punishment imposed upon him could not be imposed by the person, who has imposed it. A perusal of the record shows that charge-sheet was issued by the Director, whereas punishment was imposed by the Registrar. As per charge-sheet dated 31.03.2006, which is Ex.P3, it was issued by the Director and as per the reinstatement order dated 18.07.2007 (Ex.P7), minor punishment has been imposed upon the respondent. It is well settled principle of service law that no authority lower to the authority, who charge-sheeted or initiated the inquiry against the employee can impose punishment. Therefore, in the present case, where Registrar has imposed the minor punishment, the same is liable to be set aside on the ground that charge-sheet was issued by the Director.

10. It would be apposite to reproduce the relevant paragraphs of the judgment and decree dated 23.02.2013 passed by the learned First Additional District Judge, Kurukshetra, which reads as under:-

“10. In fact, when punishment is minor, it reflects that it was a case of minor penalty and when there is a case of minor penalty, the suspension is per se unwarranted. Learned counsel for the appellants admitted that the punishment awarded at serial No.1 in Ex.P7 i.e. treating the suspension period as non-duty period was not envisaged under the scheme of punishment, applicable to



the respondent-plaintiff. This ground itself is sufficient to ring a death-knell to this part of the order of penalty. Similarly, penalty awarded at serial No.3 in Ex.P7 also loses significance being not applicable to the respondent-plaintiff under the scheme of punishment.

11. As far as the minor penalty awarded at serial No.2 whereby plaintiff-respondent was warned to be careful in future and placing of the same in the A.C.R. file of the respondent-plaintiff is concerned, this has to stand as there appears no infirmity in this finding and approach of the learned Trial Court in absolving the respondent of this liability, cannot be said to be legal and proper as discussed above. This position was also admitted at Bar by the learned counsel for the respondent.

12. No other point was urged before this Court.

13. As a result of the above discussion, the present appeal is partly accepted with no order as to costs to the extent stated above and resultantly the suspension period of the plaintiff-respondent is treated as duty period for all intents and purposes and plaintiff-respondent is entitled to full salary of the said period. The appellants-defendants are directed to release the amount of arrears with interest at the rate of 6% per annum within a period of two months. The Decree sheet be drawn accordingly.”

11. A perusal of the above shows that it is admitted by the appellants that punishment awarded at Serial No.1 in Ex.P7 i.e. treating the



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suspension period as non-duty period was not envisaged under the scheme of punishment, applicable to the respondent.

12. It is rightly observed by the learned First Additional District Judge, Kurukshetra, that penalty awarded at Serial No.3 in Ex.P7 also loses significance being not applicable to the respondent under the scheme of punishment. Therefore, requires no interference.

13. In view of the above discussion, I do not find any infirmity or illegality in the judgment and decree dated 23.02.2013 passed by learned First Additional District Judge, Kurukshetra, and the same is hereby upheld.

14. Consequently, the present appeals are hereby **dismissed**. Parties are left to bear their own costs.

15. Decree sheet be drawn.

16. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

11.11.2025

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No