

RSA-1667 of 1993 (O&M)

2026:PHHC:021121



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1667 of 1993 (O&M)

Date of decision: 11.02.2026

Makhtool Singh

.....Appellant

Versus

The State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Ranjit Saini, Advocate, for the appellant.
Mr. Satnampreet Singh Chauhan, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. By way of present Regular Second Appeal appellant-plaintiff has assailed the judgment and decree dated 10.11.1990, passed by learned Sub Judge Ist Class, Amritsar, whereby suit of the appellant for declaration was dismissed as well as the judgment and decree dated 18.08.1992, passed by learned Additional District Judge, Amritsar, whereby appeal filed by the appellant against the judgment and decree of the trial Court, has been dismissed.

2. Parties to the *lis* are being referred as per their status before the trial Court. The pleaded case of the plaintiff is that he was employed as a Conductor in the Punjab Roadways, Amritsar-I. A false report was made by checking staff against the plaintiff for some ulterior motive. He was placed under suspension. Thereafter, a charge sheet was served upon him to which he replied. After considering the reply of the plaintiff, a departmental inquiry was held against the plaintiff. He was awarded the punishment of removal from service vide order dated 30.11.1983. Plaintiff filed an appeal before the Divisional Manager, who remanded the case to the Inquiry Officer vide order



dated 24.03.1986. Thereafter, a departmental inquiry was held against the plaintiff and vide order dated 20.06.1988, penalty of stoppage of four annual increments with cumulative effect was imposed upon him. Thereafter, plaintiff filed a suit for declaration to the effect that the order dated 20.06.1988 is illegal, unconstitutional, against the principles of natural justice, against the Punjab Civil Services (Punishment & Appeal) Rules, 1970, cryptic and not binding on the plaintiff.

3. Upon being served, defendants contested the suit by filing a written statement, wherein it was stated that the impugned order was validly passed after complying with the relevant rules and regulations of the department for the misconduct on the part of the plaintiff. It was also pleaded that the General Manager, Punjab Roadways, was necessary party to decide the controversy between the parties and the suit was bad for mis-joinder of parties. It was also stated that no valid notice was given to the defendants before filing the present suit. From the pleadings of the parties, following issues were framed by the trial Court vide order dated 27.10.1989: -

- “1. Whether the impugned order dated 20.6.88 passed by defendant no.2 is illegal, void and against the principles of natural justice and service rules applicable to the plaintiff? OPP*
- 2. If issue no.1 is proved, whether the plaintiff is entitled to the declaration and consequential relief prayed for? OPP*
- 3. Relief.*



4. The trial Court after appreciating evidence and hearing learned counsel for the parties, dismissed the suit, vide judgment and decree dated 10.11.1990.

5. Thereafter, the plaintiff filed first appeal before the First Appellate Court, which too was dismissed, vide judgment and decree dated 18.08.1992, by holding that from the evidence on record there is no manner of doubt that all the relevant provisions were complied with before passing the impugned orders and personal hearing was also given to the plaintiff before passing those orders. Hence, the instant Regular Second Appeal.

6. The only argument raised by learned counsel for the appellant is that the appellant-plaintiff was not supplied the disagreement note and, therefore, there is a violation of the principles of natural justice and, therefore, the order dated 20.06.1988, of stoppage of four annual grade increments of the appellant with cumulative effect is liable to be set aside.

7. On the other hand, learned State counsel has opposed the said contention raised by learned counsel for the appellant and submits that the dissenting note was supplied to the appellant-plaintiff and he never raised the said issue when he filed reply to the show-cause notice and proposed punishment and never pleaded in the suit with regard to the same.

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



9. The trial Court has thoroughly examined the said issue and finding has been recorded that the dissenting note was supplied to the appellant-plaintiff. He never raised this issue when he filed reply to the show-cause notice proposing the punishment. He never pleaded in the suit about non-supply of the disagreement note and after thoroughly examining the said issue it has been held as under: -

“Issues No.1 and 2:

6. *Both these issues being interconnected can be discussed together conveniently. The learned counsel for the plaintiff submitted that the punishing authority violated the mandatory provisions of rule 9(4)(i)(a) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970, in as much as no copy of the dissenting note was supplied to the plaintiff alongwith the show cause notice proposing punishment against him. He also placed reliance on "Y.K. Verma V/S Union of India and ors" (1988(i) SLR 15) to support his contention. The principle of law laid down in the said authority was to the effect that if the disciplinary authority did not agree with the finding of the Inquiry Officer, then he was required to record a dissenting note and necessary intimation of such note should be given to the delinquent official. This authority nowhere lays down that a copy of the dissenting note must be supplied to the delinquent official by the disciplinary authority. The disciplinary authority is only required to intimate its attitude regarding the proposed punishment to the delinquent official. The perusal of the inquiry file shows that the punishing authority, when disagreed with the report of the Inquiry Officer, recorded a dissenting note. Thereafter, a show cause notice of proposed punishment was served upon the plaintiff. **From the perusal of the show cause notice, it is evident that the plaintiff in his***



own hand wrote that the show cause notice and also copy of the conclusion were received by him. Under his signatures, he mentioned the date as 16.7.1988. From this document, it is evident that he was supplied with a copy of dissenting note recorded by the punishing authority. No doubt, it was not clearly written on this show cause notice, which is at page 203 of the inquiry file, as to whether copy of the dissenting note was supplied to him. Dissenting note is in the form of conclusion arrived at by the punishing authority while disagreeing with the findings of the Enquiry Officer. Even in the plaint, it was not specifically written by the plaintiff that he was not supplied with the copy of the dissenting note, it was also not stated by the plaintiff in the plaint that he was not intimated the brief reasons for recording the dissenting note by the punishing authority. In para 11 of the plaint it was stated by the plaintiff that the was served with a show cause notice of the proposed punishment of stoppage of four annual increments with cumulative effect, but no relevant material, required under the law, was supplied to him. In case, the plaintiff had not been supplied with a copy of the dissenting note or the brief reasons for recording the dissenting note by the punishing authority, he could make a definite assertion in the plaint that he was not supplied with these documents. It appears from the record that the plaintiff was supplied with the copy of the dissenting note. Even in reply dated 5.4.88 to the show cause notice, it was not stated by the plaintiff that he had not been supplied with a copy of the dissenting note. He also did not state that he was not intimated the brief reasons, which weighed with the punishing authority for recording the dissenting note. In case, the plaintiff was not supplied with a copy of the dissenting note or was not intimated of the same by the punishing authority, he



could very well take such a plea in reply to show cause notice. The mere fact that he did not take this plea in the reply to the show cause notice clearly goes to establish that he was supplied with all the relevant documents. Even a personal hearing was granted to the plaintiff, wherein he stated that the proposed punishment was disproportionate to his guilt and he be pardoned. Even if it is admitted for the sake of arguments that no copy of the dissenting note was supplied to the plaintiff, until and unless it is proved that a prejudice was caused to the plaintiff, the order in question cannot be held to be illegal. In "State of Punjab Versus Gurdip Singh" (P&H) (1985(2) A.I.S.L.J. 591), a similar argument regarding the violation of rule 9(4) (1) (a) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970, raised, it was the version of the petitioner in the above cited case that he was not supplied with a copy of the dissenting note. After considering the contention of the learned counsel for the petitioner, it was held in the aforesaid case that since no prejudice was caused to the petitioner on account of non-supply of a copy of the dissenting note and that he was afforded an adequate opportunity of defending his case, the order vide which he was dismissed, could not be held to be illegal. The law laid down in the afore mentioned authority is fully applicable to the facts of the present case. No prejudice, whatsoever, was caused to the plaintiff on account of the alleged non compliance of the provisions of rule 9(4) (i) (a) of the rules *ibid*. The order dated 20.6.88, therefore, cannot be said to be illegal.

7. It was next submitted by the learned counsel for the plaintiff that there has been a gross violation of the provisions of rule 9.2 of the rules *ibid* in as much as the dissenting note recorded by the punishing authority was not based in the record. The submission of the learned



counsel for the plaintiff does not appear to be correct. The perusal of the inquiry file shows that the dissenting note recorded by the punishing authority is based on record. In dissenting note, the evidence was discussed by the punishing authority briefly and he came to the conclusion that the finding recorded by the inquiry officer exonerating the plaintiff of all the charges was incorrect. This note was recorded by the punishing authority after going through the entire evidence and analysing the circumstances appearing on record. Therefore, there is no violation of the provisions of rule 9.2 of the rules ibid. The submission of the learned counsel for the plaintiff therefore stands rejected.”

The said finding has also not been disturbed by the first appellate Court and has been confirmed.

10. Keeping in view the above, there is no perversity in the judgments and decrees passed by the trial Court as well as the first appellate Court. Concurrent findings have been recorded by both the Courts and learned counsel for the appellant has failed to show that the same are perverse or illegal or based on mis-reading, non-reading or mis-appreciation of the material evidence on record.

11. No question of law, much less substantial question of law has been raised or arises for consideration in the present appeal. No other point has been urged.

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

(NAMIT KUMAR)
JUDGE

11.02.2026
R.S.

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No