

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3384-2006 (O&M)

STATE OF HARYANA & ANR

..Appellants

Versus

HARNOOP SINGH

..Respondent

Reserved on: 17.02.2026

Pronounced on : 24.03.2026

Uploaded on : 25.03.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Harish Nain, AAG, Haryana.

Ms. Rajni Sihag, Advocate
for respondent.

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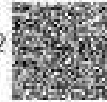
SUDEEPTI SHARMA, J.

1. The present regular second appeal is preferred by State of Haryana against judgment and decree dated 30.05.2006, passed by learned Additional District Judge, Hisar, whereby, the appeal filed by respondent against judgment and decree dated 28.10.2005 passed by learned Additional Civil Judge (Senior Division), Hisar was allowed.

BRIEF FACTS OF THE CASE

2. Brief facts of the case as per the pleadings in the civil suit are that father of respondent was working in Haryana Roadways as driver and after his death, respondent was appointed as Helper in Haryana Roadways,

Fatehabad on ex-gratia basis vide order dated 10.02.1993 and he joined as



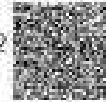
such on 19.04.1993. The respondent was transferred to Karnal depot in the year 1997. He fell ill and had been sending medical certificate of his illness to General Manager, Haryana Roadways, Depot Karnal and after obtaining fitness certificate, when he came to join his duties, he was not permitted to join. Then, he came to know that on 14.02.2000, he was ordered to be dismissed from service and this order was received by him in the month of March, 2000. The order was passed without affording an opportunity of personal hearing to the respondent and enquiry proceedings were conducted without any notice to the respondent. He filed civil suit challenging order dated 14.02.2000, whereby, he was dismissed from service. The civil suit filed by him was dismissed vide judgment and decree dated 28.10.2005 by learned Additional Civil Judge (Senior Division), Hisar. He filed appeal against the same, which was accepted by learned Additional District Judge, Hisar vide judgment and decree dated 30.05.2006. Hence, the present Regular Second Appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:-

3. Learned counsel for the appellants contends that learned Additional District Judge, Hisar has wrongly set aside the well reasoned judgment and decree dated 28.10.2005 passed by learned Additional Civil Judge (Senior Division), Hisar.

4. Further that respondent was absent from duty for approximately 10 months for which he was dismissed from service.

5. He further contends that respondent did not file any departmental appeal against the dismissal order since there is a remedy of appeal and revision to challenge the dismissal order.



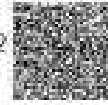
6. He further contends that learned Additional District Judge, Hisar has wrongly allowed the appeal filed by the respondent by relying upon judgment of **State of Punjab Vs. Bakshish Singh, 1999 AIR Supreme Court 2626**, which was declared to be bad law by Hon'ble Supreme Court in **State of Punjab and others Vs. Charanjit Singh and others 2003(8) SCC 458**. He, therefore, prays that the present appeal be allowed.

7. Per contra, learned counsel for respondent contends that learned First Appellate Court has rightly accepted the appeal vide judgment and decree dated 30.05.2006. She, therefore, prays that the present appeal be dismissed.

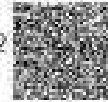
8. I have heard learned counsel for the parties and have perused the whole record of the case with their able assistance.

9. Vide order dated 07.09.2006 passed by this Court, execution of judgment and decree of First Appellate Court was stayed.

10. Admittedly, respondent joined office of General Manager, Haryana Roadways, Karnal Depot on 03.09.1997. Thereafter, he remained absent from duty with effect from 28.09.1997 to 29.09.1997 for which he was chargesheeted on 13.10.1997. He did not submit any reply within the stipulated period and vide order dated 15.12.1997, the absent period of respondent was sanctioned as "Leave Without Pay". Despite that, he was again absented from duty with effect from 02.10.1997 to 25.05.1998, for which he was again chargesheeted on 14.01.1998. No reply to the chargesheet was submitted by him, thereafter, enquiry was conducted and Enquiry Officer submitted his report, whereby, charges levelled against respondent were proved and on the basis enquiry report, show cause notice dated 06.05.1999 was served upon the respondent. In response to the show



cause notice, respondent submitted a medical certificate, which had no relevancy with the case. Thereafter, after affording an opportunity of personal hearing to the respondent, order dated 15.11.1999 (Ex.D-15) was passed by virtue of which two increments with cumulative effect of respondent were stopped and his absent period was sanctioned as "Leave Without Pay". Again he remained absent from duty with effect from 06.08.1998 to 15.06.1999. He was chargesheeted vide order dated 22.10.1998 (Ex.D-1). No reply to the same was filed. Enquiry Officer was again appointed to enquire into the matter vide order dated 09.12.1998 (Ex.D-5). The matter was enquired by Enquiry Officer and opportunity of being heard was given to the respondent. Report of Enquiry Officer is Ex.D-7. Subsequent thereto, respondent was again sent a show cause notice and was afforded an opportunity of personal hearing, which is evident from Ex.D-8, since no satisfactory reply was filed by the respondent, therefore, order of dismissal from service dated 14.02.2000 was passed. Order dated 14.02.2000 was challenged in the civil suit. A perusal of oral as well as documentary evidence placed on record by the appellants as well as from the cross-examination of respondent himself, it is evident that he did not dispute that he was duly chargesheeted and after enquiring into the matter and affording opportunity of personal hearing to him, order dated 14.02.2000 was passed. Though, he showed his ignorance about the receipts, notices and letters from the appellants but there is no specific denial to the factum of personal hearing given to him. The only plea taken throughout is that he was very ill, therefore, he could not join the duty but no proof was produced by him regarding the same. Dr. Rajesh Goyal was examined as PW-1, who produced medical certificate of respondent (Mark-A). In his cross-

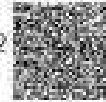


examination, he contended that respondent remained under his treatment with effect from 06.08.1998 to 14.06.1999. However, absent period of respondent is from 02.10.1997 to 25.05.1998. And regarding this absent period, no such medical certificate was produced by respondent. The respondent remained absent from duty with effect from 02.10.1997 to 25.05.1998. But no medical certificate was produced by him during the enquiry proceedings, which is revealed from enquiry order. Respondent himself had admitted that he had been receiving letters from the department. Therefore, a perusal of the record shows that respondent had notice of the proceedings against him and had himself appeared before Enquiry Officer and stated that he did not want to lead any evidence nor want to cross-examine the witnesses, which is evident from Ex.D-12, therefore, respondent cannot take the plea that dismissal order was passed without affording any opportunity of being heard to him.

11. A perusal of the record further reveals that respondent was habitual absentee from duty. He was also served with minor penalties of "Leave Without Pay" or stoppage of increments but he kept on remaining absent from duty without any explanation. There is nothing on record to show that impugned order of dismissal dated 14.02.2000 was passed in violation of principles of natural justice.

12. The Hon'ble Supreme Court in **Charanjit Singh's (supra)** has held as under:-

*"5. In the **State of Punjab and others v. Bakshish Singh, 1998(7) JT(SC) 142** which was relied upon by the Courts below in holding that the misconduct stood condoned, was explained in **Maan Singh (supra)**. No law has been laid down in **Bakshish Singh (supra)** to the effect that*



only in the event, leave without pay is directed to be granted while passing an order of punishment, the leave having been regularised the order of punishment also becomes bad in law and void ab initio. While deciding Bakshish Singh (supra), this Court had not taken into consideration an earlier binding precedent in State of Madhya Pradesh v. Harihar Gopal, 1969 SLR 274 (SC) wherein it has clearly been stated that such an order is passed only for the purpose of regularising the leave and thereby the effect of punishment is not wiped out. In Maan Singh (supra), it was held that the period of absence when treated as leave without pay, was with a view to regularise the leave and not for condonation of misconduct.”

13. A perusal of the above shows that **Bakshish Singh’s case (supra)** relied upon by learned First Appellate Court while accepting the appeal filed by the respondent is declared as bad law by Hon’ble Supreme Court in **Charanjit Singh’s case (Supra)**.

DECISION

14. In view of the above, the present appeal is **allowed**. And judgment and decree dated 30.05.2006 passed by learned Additional District Judge, Hisar by relying upon judgment passed in case titled as **State of Punjab Vs. Bakshish Singh, 1999 AIR Supreme Court 2626**, is set aside.

Parties are left to bear their own costs.

15. Decree sheet be drawn.

16. Pending miscellaneous applications, if any, are also disposed of.

24.03.2026

Ayub

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(SUDEEPTI SHARMA)
JUDGE