



RSA-3469-2006 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA-3469-2006 (O&M)

SURINDER KUMAR (NOW DECEASED) THROUGH HIS LRs AND
OTHERSAppellants

Vs.

UNION OF INDIA AND OTHERS

.....Respondents

Reserved on: 08.04.2026

Pronounced on: 29.04.2026

Uploaded on: 01.05.2026

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. U.K. Agnihotri, Advocate and
Mr. A.K. Agnihotri, Advocate
for the appellants.

Mr. Lalit Kumar Gupta, Advocate
for the respondents.

SUDEEPTI SHARMA J.

1. The present appeal is preferred against judgment and decree dated 13.05.2006 passed by learned District Judge, Chandigarh whereby, appeal filed by respondents against judgment and decree dated 15.09.2005 passed by learned learned Civil Judge (Jr. Division), Chandigarh was allowed.

2. Brief facts of the case as per the civil suit are that appellant was working as constable in Central Industrial Security Force Unit at Nangal. On 03.10.1999 from 06.00 AM to 02.00 PM he was deputed on duty at the house of General Manager, NFL, Nangal. At about 10.00 AM during duty he was found under the influence of liquor. Chargesheet was issued to him on

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05.10.1999. He replied to the same and denied the allegations against him. Inquiry Officer was appointed who submitted his report on 15.11.1999 holding him guilty for charge of grave indiscipline and negligence for being found under the influence of liquor. On the same day i.e. 15.11.1999 show cause notice was issued to him to which he submitted his reply. Ultimately vide order dated 04.12.1999, he was removed from service. He filed departmental appeal against the same which was dismissed on 25.07.2000. He filed civil suit challenging order of dismissal dated 04.12.1999 and Appellate Authority's order dated 25.07.2000. Civil suit filed by him was partly decreed in his favour vide judgment and decree dated 15.09.2005 passed by learned Civil Judge (Jr. Division), Chandigarh with the direction to respondents to take up the enquiry proceedings from the stage of evidence of doctor. Respondents filed appeal against the same which was allowed by learned District Judge, Chandigarh vide its judgment and decree dated 13.05.2006. Hence, the present regular second appeal.

3. Learned counsel for the appellants contends that learned First Appellate court wrongly set aside well-reasoned judgment and decree dated 15.09.2005 passed by learned Civil Judge (Jr. Division), Chandigarh. He, therefore, prays that the present regular second appeal be allowed.

4. He relies on the following judgments to support his arguments:-

- i. ***Manoj Kumar Vs. State of U.P. Through Principal Secretary and Ors., 2020(5) ADJ 92*** (Allahabad High Court);
- ii. ***Salim Kumar B.S. Vs. State of Kerala and Ors., 2021 (6) KHC 380*** (Kerala High Court)

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

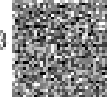
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Judge, Chandigarh vide judgment and decree dated 13.05.2006. He, therefore, prays that the present regular second appeal be dismissed.

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

7. A perusal of the file shows that during departmental enquiry, department examined two material witnesses. One was PW-5, Senior Overseer who was present when appellant indulged in irrelevant and incoherent talk with General Manager. Second material witness was PW-1, Rajinder Kumar who was called at the spot and found that appellant was not in full senses and was incoherent in talk with General Manager. He was also not wearing his uniform properly and has also not shaved his face. Apart from it, the report from medical examination of appellant was also tendered in evidence. This report was denied by appellant. He stated that he had taken cough syrups and there is similarity between smell of cough syrup and liquor. The report of doctor says that appellant had refused to give sample of blood and urine. Though the doctor was not examined and appellant also in his statement denied that doctor demanded the sample of his blood and urine for test, yet PW-2/Inspector J.S. Mann who took the appellant for medical examination and who was present when appellant was medically examined categorically stated that when the doctor demanded samples of blood and urine from appellant, he refused to give the same. This witness was not cross-examined by appellant during enquiry. Statement of PW-2/Inspector J.S. Mann about the refusal of appellant to give samples of urine and blood to find out if he was under the influence of liquor goes against the appellant.

Further appellant in his cross-examination though denied that he was under



the influence of liquor but volunteered that he had taken cough syrup since he was suffering from cough etc. He admitted that he was taken to the hospital for medical examination and denied that he refused to give blood as well as urine samples to the doctor. He further admitted that he was also punished about six times prior to the impugned order and admitted that during enquiry, the witnesses who appeared against him had no enmity. He admitted that he got opportunity to cross-examine the witnesses. A perusal of medical examination (Ex.D-18) shows that it is specifically stated that appellant was smelling alcohol but he refused to give samples of blood and urine.

8. Now coming to the judgments relied by learned counsel for the appellants. The same are not applicable in the present case as the facts of the present case are altogether different and distinguishable since it is admitted fact that appellant refused to give blood and urine samples to prove that he was under the influence of liquor.

9. In view of the above, I do not find any infirmity in judgment and decree dated 13.05.2006 passed by learned District Judge, Chandigarh, and the same is upheld.

10. Accordingly, the present regular second appeal is ***dismissed***.

11. Decree sheet be prepared accordingly.

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

29.04.2026

Saahil/Ayub

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No