
(2012) 04 P&H CK 0091

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 3653 of 2010 (O and M)

Malkiat Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: April 3, 2012

Hon'ble Judges: Jaswant Singh, J

Bench: Single Bench

Advocate: R.S. Rangpuri, for the Appellant;

Final Decision: Dismissed

Judgement

Jaswant Singh, J.

Since there is delay of 200 days" in refiling the present appeal, application bearing CM No. 10739-C/2010 has been filed seeking condonation of the said delay. The application is supported by an affidavit dated 27.7.2010 of Anush Kumar, Clerk to the counsel for the appellant. For the reasons stated in the application which is duly supported by affidavit of Clerk to the counsel for the appellant, the application is allowed and delay of 200 days in refiling the appeal is condoned.

RSA No. 3653/2010.

2. Plaintiff/appellant is in second appeal against the judgments and decrees passed by both the courts below whereby his suit for declaration and mandatory injunction has been dismissed and affirmed in appeal.

3. Appellant Malkiat Singh was working as a Driver with Punjab Roadways and was posted at Ferozepur during the period around 9.4.2001. For remaining absent from duty on 9.4.2001, he was placed under suspension vide order dated 9.4.2001. He was subsequently charge sheeted and after conclusion of the disciplinary proceedings, vide order dated 19.6.2002 a punishment of censure was awarded to him. Another order dated 1.3.2004 was passed whereby the suspension period with effect from 9.4.2001 till the date of reinstatement on 28.6.2002 was treated as leave of the kind due.

4. On 9.2.2005 plaintiff filed a suit for declaration assailing the suspension order dated 9.4.2001, order of punishment dated 19.6.2002 and the order dated 1.3.2004 whereby his period of suspension was ordered to be treated as leave of the kind due with further relief of mandatory injunction to release the consequential benefits with interest @ 24% per annum. It was submitted that the plaintiff did not remain absent from duty on 9.4.2001 and a false report of his being absent from duty was made by the officials due to personal grudge. It was further submitted that the enquiry proceedings were arbitrary and conducted without affording any opportunity of hearing.

5. In the written statement, the allegations were denied and it was asserted that enquiry proceedings were conducted strictly in accordance with rules and principles of natural justice.

6. Both the courts below have recorded a finding that the enquiry proceedings were conducted after following the provisions of the departmental rules and following the principles of natural justice. It is apparent from the record that the appellant was given due opportunity to file his reply and lead his evidence. He had also cross examined the departmental witnesses.

7. After hearing the learned counsel for the plaintiff/appellant I find that both the courts below have rightly observed that while considering the cases of disciplinary proceedings the courts do not sit as courts of appeal and interference is only to be made in case of violation of principles of natural justice or any finding which amounts to perversity.

8. In view of the above, I am also of the opinion that it is not a fit case which requires interference as no question of law much less substantial question of law arises for determination in this appeal. Dismissed.