

State of Punjab and Another

Vs

Kashmir Singh

Civil Appeal No. 11457 of 1996

(B. P. Jeevan Reddy, K. S. Paripoornan JJ)

06.09.1996

ORDER

1. Leave granted.
2. Heard counsel for the parties.
3. The respondent was a driver in the service of the Punjab Roadways, Jalandhar. There was an accident of the bus he was driving on 2-7-1986. A number of passengers were injured and the bus damaged. An FIR was issued against the respondent under Section 304-A of the IPC and certain other provisions. He was also suspended pending enquiry. A memo of charges was issued to him proposing to hold a disciplinary enquiry on the charge of causing loss to the Corporation by driving the bus rashly and negligently. An Inquiry Officer, Shri R.S. Sharma, was appointed. While the proceedings were pending before the Inquiry Officer, the criminal court acquitted the respondent under its judgment and order dated 19-10-1988. After perusing the judgment of the criminal court, a fresh disciplinary enquiry was ordered against the respondent for which purpose a different Inquiry Officer was appointed. The disciplinary enquiry was accordingly held and on the basis of the report of the Inquiry Officer the respondent was found guilty of the charges and dismissed from service.
4. The respondent instituted a suit in the Court of Sub-Judge, Jalandhar for a declaration that the order of dismissal was void and illegal and for consequential benefits. The learned Subordinate Judge dismissed the suit but in appeal the learned District Judge upheld the respondent's claim. The order of dismissal was declared illegal and the respondent was held entitled to all the benefits flowing from such declaration. The second appeal preferred by the Corporation and the State of Punjab was dismissed in limine by the High Court.
5. The main ground upon which the learned District Judge has decreed the respondent's suit is that inasmuch as the first Inquiry Officer (Shri R.S. Sharma) had submitted his report which report was also acted upon, no second disciplinary enquiry could have been ordered, particularly after acquittal by the criminal court. We called upon the learned counsel for the respondent before us to show us the evidence or the material on the basis of which the appellate court has held that the first Inquiry Officer had submitted his report after the conclusion of the enquiry and that it was also acted upon. We also asked the learned counsel to clarify what do the words 'the enquiry report of Shri R.S. Sharma has been acted upon under Rule 9.1' in the judgment of the learned District Judge, mean. The learned counsel for the respondent is unable to point out any evidence or explain the said observation. Indeed in the written submissions filed by the learned counsel, Shri U.S. Prasad, it is stated "in all fairness I must point out to your Lordships that the Enquiry Report and the order imposing the punishment is not available". The basis of the judgment of the first appellate court thus

becomes untenable.

6. We are, however, not inclined to dispose of the matter finally at this stage. We have not been shown the copy of the judgment and order of the criminal court acquitting the respondent. We have also not been shown the proceedings ordering the fresh enquiry or the reasons on which the fresh disciplinary enquiry was ordered, after the acquittal of the criminal court. These matters may require further examination. Accordingly we allow the appeal and set aside the judgment of the High Court. We request the High Court to admit the second appeal preferred by the appellants and dispose it of on merits in accordance with law.