
(2011) 04 P&H CK 0224

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 2992 of 2005

Om Parkash Sharma

APPELLANT

Vs

Punjab State Electricity Board and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Punjab Civil Services Rules — Rule 2(2)

Citation : (2011) 04 P&H CK 0224

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Plaintiff Om Parkash Sharma after having failed in both the courts below has come up by way of instant second appeal.

2. In the suit, Plaintiff challenged order dated 5.12.2000 passed by Defendant No. 2 - Chief Engineer thereby ordering recovery of Rs. 7,12,700/-from retiral benefits of the Plaintiff. Subsequent order dated 4.9.2001 passed by Defendant No. 2 regarding recovery of said amount from retiral benefits of the Plaintiff including instalments of 50% of the pension amount every month was passed. The Plaintiff retired as Junior Engineer on 31.1.1995 from the service of Defendant No. 1 - Punjab State Electricity

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Board. The Plaintiff's case is that order for recovery is null and void and also that recovery cannot be effected from retiral benefits of the Plaintiff.

3. Defendants broadly controverted the plaint allegations. It was pleaded that recovery has been rightly ordered from the Plaintiff. It was also alleged that the Plaintiff had earlier filed suit on 24.5.1993 for declaration and permanent injunction relating to the same amount. The said suit was dismissed and thereafter recovery order was passed legally and validly. The recovery being

made is legal and valid. Various other pleas were also raised.

4. Learned Civil Judge (Senior Division), Sangrur vide judgment and decree dated 11.12.2004 dismissed Plaintiff's suit. First appeal preferred by Plaintiff has been dismissed by learned Additional District Judge, Sangrur vide judgment and decree dated 18.2.2005. Feeling aggrieved, the Plaintiff has preferred the instant second appeal.

5. I have heard learned Counsel for the parties and perused the case file.

6. Learned Counsel for the Appellant contended that impugned recovery has been ordered illegally because the accounts have not been reconciled. However, the civil court cannot go into this aspect. Admittedly, show cause notice was issued to the Plaintiff and after he submitted his reply, the impugned order of recovery was passed. Consequently, there has been no violation of rules of procedure or principles of natural justice in passing the impugned order of recovery. Civil court is not to sit in appeal over the order passed by the Departmental Authority regarding recovery of

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loss caused by an employee while in service. Scope for interference by civil court is limited in this matter. Learned Counsel for the Appellant next contended that in view of Rule 2.2 of Punjab Civil Services Rules (CSR) Volume-II, recovery from pension cannot be effected without consent of the retiree and recovery cannot be effected if it is in respect of any event which took place more than four years before the commencement of the departmental proceedings. The contention although apparently attractive is, in fact, devoid of merit. Rule 2.2 (b) of CSR lays down that the departmental proceedings instituted while the government employee was in service can continue even after retirement. Limit of four years, therefore, does not apply to such proceedings. In the instant case, the proceedings had started much before the year 1993 when the Plaintiff was still in service because he challenged the same by filing earlier suit in 1993. The Plaintiff admitted in cross-examination that said previous suit also pertained to the disputed amount. Similarly under Rule 2.2 (b) of CSR recovery of pecuniary loss caused by the retiree can be made from the pension of the retiree. Consequently, the aforesaid contentions cannot be accepted.

7. For the reasons aforesaid, I find no merit in the second appeal.

8. No question of law much less substantial question of law arises for determination in the instant second appeal. Accordingly, the appeal is dismissed.