

(2015) 04 SC CK 0062
In the Supreme Court Of India
Case No : C.A. No. 3134 of 2007

Punjab and Sind Bank and Others

APPELLANT

Vs

Daljinder Singh

RESPONDENT

Date of Decision : 06-04-2015

Acts Referred:

Citation : (2015) 4 SCALE 545 : (2015) 3 SCT 177

Hon'ble Judges : Dipak Misra, J; Prafulla C. Pant, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This appeal is directed against judgment and order dated 10.03.2005, passed by the High Court of Punjab and Haryana, in Regular Second Appeal No. 713 of 2005 whereby the High Court declined to interfere with the order passed by the Additional District Judge, Fast Track Court, Gurdaspur, and upheld the decree passed by first appellate court. We have heard Learned Counsel for the parties, and perused the record.

2. Brief facts of the case are that the Respondent (plaintiff) was a ministerial employee of Appellant-Bank. He was dismissed from service vide order dated 5.9.1997, passed by the Bank. Consequently he filed a suit for declaration challenging the legality and validity of dismissal order dated 5.9.1997 passed by the Zonal Manager (Disciplinary Authority) whereby he was dismissed from service. The charge levelled against the Respondent was that while being posted as clerk, he let advanced a sum of Rs. 4500/- as loan on 10.1.1989 to one Surti son of Gura for purchase of buffaloes at Branch Office Dhariwal. It so turned out that the party to whom the loan was advanced had expired on 13.11.1980, i.e., much prior to sanction and disbursement of the loan. Thus, it was alleged that the Respondent had connived with the Branch Manager and misappropriated public funds with vested interests. The reply of the Respondent to the authorities was that he simply filled the form and connected papers at the instance of the Branch Manager of the Bank and the surety. He further pleaded that he acted

bona fide in filling the form and the connected papers. He had no knowledge that Surti son of Gura, in whose name the loan was being taken, was not alive.

3. The trial court (Additional Civil Judge, Senior Division, Gurdaspur), after recording evidence and hearing the parties, vide judgment and decree dated 22.2.2002, dismissed the suit (suit No. 287 of 1997) holding that the order of dismissal, challenged by the Plaintiff, suffers from no illegality.

4. Being aggrieved by the judgment and decree passed by the trial court, appeal was filed by the Respondent before the first appellate court. The Additional District Judge, Fast Track Court, Gurdaspur, after perusing the records and hearing both the parties, allowed the appeal of the Respondent and reversed the judgment and decree passed by the trial court and came to the conclusion that as a clerk the Respondent was not supposed to know while filling up the form whether the person was genuine or not. In substance only charge against the Respondent was that he filled up certain forms. But that itself does not establish fraud or mis-appropriation on his part. The first appellate court further found that it is a case of violation of the principle of natural justice as the Respondent has been punished without there being an iota of evidence against him.

5. The High Court, after hearing the parties, concurred with the view taken by the first appellate court and dismissed the second appeal. Hence this appeal.

6. Having heard Learned Counsel for the parties and after perusal of the papers on record, we are of the view that admittedly the Plaintiff was not the authority who sanctioned loan. We have no reason to disagree with the concurrent findings of the first appellate court and the High Court. Both the courts below have accepted the defence taken by the Plaintiff before the Enquiry Officer and given finding of fact that under instructions of the Branch Manager, the Respondent filled the form, and out of the persons who approached the Bank for loan, only surety was personally known to him. As such he acted bona fide.

7. Therefore, we decline to disturb the finding of fact as to wrongful dismissal from service recorded by the first appellate court and High Court, but considering the facts and circumstances of the case, we are of the opinion that it is not a fit case for directing reinstatement. Rather awarding a lump sum compensation of an amount of Rupees five lakhs by the Appellant Bank to the Plaintiff for his wrongful dismissal, would meet the ends of justice. If the amount is not paid or deposited before the trial court within three months from today, the Appellant shall pay interest @ 6% p.a. from the expiry of three months. We order accordingly. The impugned order shall stand modified to the extent as above. The appeal stands disposed of. No order as to costs.