



RSA-1123-2019 (O&amp;M)

-1-

241

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

RSA-1123-2019 (O&amp;M)

Date of Decision: 21.07.2025

The State of Punjab and others

.....Appellants

Vs.

Gurdip Singh

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. R.S.Pandher, Addl. A.G., Punjab,  
for the appellants.

Mr. Parminder Singh, Advocate,  
for the respondent.

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**SUDEEPTI SHARMA J. (ORAL)****CM-2741-C-2019**

1. The present application has been filed under Section 5 of the Limitation Act, 1963, for condonation of delay of 1018 days in filing the present appeal.

2. For the reasons mentioned in the application, the same is allowed and the delay of 1018 days in filing the present appeal is condoned.

**RSA-1123-2019 (O&M)**

1. The present Regular Second Appeal is preferred against the judgment and decree dated 27.01.2016 passed by the learned Additional District Judge, (A), Gurdaspur, whereby, the appeal filed against the



**RSA-1123-2019 (O&M)**

-2-

judgment and decree dated 15.06.2012 passed by the learned Civil Judge (Junior Division), Batala, was allowed.

2. Brief facts as stated in the civil suit are that the respondent-Gurdip Singh was appointed as Conductor in Punjab Roadways on permanent basis against sanctioned post. He was issued charge-sheet containing the allegations of embezzlement to which he filed reply. Without considering his reply, Inquiry Officer was appointed to hold inquiry and the respondent was held guilty of the charges levelled against him. The contention of respondent, as per pleadings, is that without issuing any show cause notice to him, order dated 28.08.2008 was passed by appellant No.2-Director, State Transport, Punjab, Chandigarh, by virtue of which, punishment of compulsory retirement was imposed against the respondent. Even during the period he remained under suspension, his service was forfeited. He, therefore, filed a civil suit challenging the order dated 28.08.2008, whereby, he was compulsory retired from service and order dated 06.03.2009, whereby, his departmental appeal was dismissed. Further challenge was to order dated 31.01.2009, whereby pay over and above the subsistence allowance for the period w.e.f 03.08.2007 to 31.08.2008 was forfeited. The civil suit filed by the respondent was dismissed vide judgment and decree dated 15.06.2012 passed by the learned Civil Judge (Junior Division), Batala. Respondent filed an appeal against the same, which was allowed by the learned Additional District Judge, (A), Gurdaspur,



vide its judgment and decree dated 27.01.2016. Hence, the present regular second appeal.

3. Learned counsel for the appellants contends that the learned Additional District Judge, (A), Gurdaspur, did not appreciate the evidence on record and has wrongly reversed the findings rendered by the learned Civil Judge (Junior Division), Batala, vide its judgment and decree dated 27.01.2016.

4. *Per contra*, learned counsel for the respondent submits that the appeal filed by the respondent has rightly been allowed by the learned Additional District Judge, (A), Gurdaspur and prays for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case.

6. The relevant portion of the judgment dated 27.01.2016 passed by the learned Additional District Judge, (A), Gurdaspur, is reproduced as under:-

*“14. It is an admitted fact that charge sheet in this case was issued by the General Manager, Punjab Roadways, Batala. It is also an admitted fact that General Manager Punjab Roadways, Batala is not punishing authority of the appellant. It is also an admitted fact that Inquiry Officer and Presenting Officer were appointed by the above said General Manager. It is also an admitted fact that the Director, State Transport, Punjab, Chandigarh is the punishing authority of the appellant and impugned order dated 28.08.2008 was passed by him vide*



*which order of compulsory retirement of the appellant was made. As per rule 8 (2) of the Punishment and Appeal Rules, whenever, the punishing authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against a government employee, it may itself inquire into, or appoint under this rule or under the provisions of Punjab Servants (Inquiries), Act, as the case may be, an authority to inquire into the truth thereof. Rule 8(5)(c) further provides that where the punishing authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into said charge, it may, by an order, appoint a government employee or a legal practitioner, to be known as presenting officer to present on its behalf of case in support of the articles of charge. Thus, as per rules, only Director, State Transport Punjab, who is punishing authority of the appellant was competent to serve charge sheet upon the appellant and to order for holding an inquiry against the appellant and to appoint inquiry officer and presenting officer, but as stated above in the case in hand, the charge sheet was served upon the appellant by General Manager and inquiry officer and presenting officer were also appointed by the General Manager, Punjab Roadways Batala and on completion of the inquiry, the inquiry report was sent to Director, State Transport Punjab, who passed the impugned order. There is nothing on the file that General Manager was the punishing authority of the appellant or that he was competent to serve charge sheet upon the appellant and to appoint inquiry officer to inquire into the allegations levelled against the appellant in the charge sheet and the presenting officer to present the case of the department before the inquiry officer. Neither any rules nor any letter of the government has been produced and proved*



*on judicial record to establish that General Manager was competent and empowered to proceed against the appellant. So, in view of the given circumstances, this court has no hesitation to conclude that the charge sheet served upon the appellant was without jurisdiction and when it is so the inquiry conducted against the appellant on the basis of above referred charge sheet cannot be said to be legal and valid. So much so, the Inquiry Officer and presenting officer were not appointed by the competent authority. Therefore, findings recorded by the learned trial court are against law and as such stands reversed.*

*15. No other point has either been raised or urged.*

*16. With these observations, the court is of the considered opinion that the impugned judgment and decree is not sustainable in the eyes of law and finds merit in this appeal and the same is, accordingly, allowed with costs and the suit of the appellant is decreed to the effect that the impugned order dated 28.08.2008 is illegal, null and void and same stands set aside, however, the appellant is not entitled to get the service benefits of the pay and allowances in view of the analogy of “no work no pay.” It is made clear that the respondents are still at liberty to proceed afresh against the appellant, as per rules. Decree sheet be prepared accordingly.”*

7. A perusal of the above shows that the learned Additional District Judge, (A), Gurdaspur, has categorically discussed each and every aspect on the competence of the General Manager to serve charge-sheet. Further, since the charge-sheet was issued by the Officer, who was not competent, therefore, learned Additional District Judge, (A), Gurdaspur, has



**RSA-1123-2019 (O&M)**

-6-

rightly allowed the appeal filed by the respondent and liberty was granted to the appellants to proceed afresh against the respondent, as per rules.

8. In view of the above, I do not find any infirmity or illegality in the judgment and decree dated 27.01.2016 passed by the learned Additional District Judge, (A), Gurdaspur and the same is hereby upheld. The present appeal is hereby **dismissed**. Parties are left to bear their own costs.

9. Decree sheet be drawn.

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

**(SUDEEPTI SHARMA)**  
**JUDGE**

**21.07.2025**

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No