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

**RSA-665-2001 (O&M)
Date of Decision: 07.05.2025**

The Punjab State Co-operative Supply and Marketing Federation Limited
.....Appellant

Vs.

Raghubir Ram Johrar
.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Sanchi Bindra, Advocate, for
Mr. Amar Vivek Aggarwal,
for the appellant.

Mr. Mohit Garg, Advocate,
for the respondent.

SUDEEPTI SHARMA J. (ORAL)

1. The present Regular Second Appeal is preferred against the judgment and decree dated 08.11.2000 passed by the learned Additional District Judge, Ferozepur, whereby the judgment and decree dated 19.11.1996 passed by the Additional Civil Judge (Senior Division), Fazilka, was set aside and the civil suit of the respondent was decreed in his favour.

2. Brief facts of the case are that the respondent joined as Assistant Analyst with the appellant-Markfed on 17.08.1973. In February, 1982, he was promoted as Branch Manager. On 22.03.1982 when he was posted as Branch Manager, Fazilka, a criminal case bearing FIR No.62 dated 22.02.1982 under Sections 379/411/408/465/468 of the Indian Penal Code,



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1860, was registered at Police Station City Fazilka, against him. He was put under suspension vide order dated 22.03.1982. The suspension order was subsequently revoked after about a year vide order dated 9/10.03.1983. During the pendency of the criminal case, the respondent was served with charge-sheet on the allegation that 50 bags of wheat were intercepted by the police authorities. Further allegations were that this wheat was meant for disposal under conspiracy between Bant Singh, Field Officer and the respondent. Allegations of misappropriation of wheat stocks of Markfed were also levelled. Respondent was dismissed from service on 06.03.1986. He challenged the dismissal order dated 06.03.1986 by filing civil suit. It was the case of the respondent in civil suit that he was dismissed from service without holding proper inquiry and affording opportunity of hearing. Further that the list of witnesses and documents relied upon by the appellant-Markfed were never supplied to him and the respondent was not provided full opportunity of hearing and leading evidence in defence. The civil suit filed by him was dismissed vide judgment and decree dated 19.11.1996. The respondent filed an appeal against the judgment and decree dated 19.11.1996, which was decreed in his favour, vide judgment and decree dated 08.11.2000, whereby, judgment and decree dated 19.11.1996 was set aside. Hence, the present regular second appeal.

3. Learned counsel for the appellant-Markfed contends that learned Additional District Judge, Ferozepur, has wrongly allowed the appeal filed by the respondent. She further contends that after conducting



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proper inquiry and following principles of natural justice, the respondent was dismissed from service. Further that respondent filed a revision petition before the Registrar, Co-operative Societies, Chandigarh, against the dismissal order dated 06.03.1986, which was dismissed on 10.07.1989 and was never challenged by the respondent. Therefore, she prays that the present appeal be allowed and the judgment and decree dated 08.11.2000 passed by the learned Additional District Judge, Ferozepur, be set-aside.

4. *Per contra*, learned counsel for the respondent submits that the appeal filed by the respondent was rightly accepted since no opportunity of being heard was given to him before passing the order of dismissal on 06.03.1986.

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

6. A perusal of the record shows that the respondent joined service as Assistant Analyst with effect from 17.08.1973 and due to good service record, he was promoted as Branch Manager in February, 1982. He was dismissed from service on 06.03.1986. He filed departmental appeal against the order of dismissal dated 06.03.1986, which was dismissed by the Board of Directors of the Markfed, vide order dated 23.07.1986. He preferred revision petition before the Registrar, Co-operative Societies, Chandigarh, which was rejected on 10.07.1989 by the Additional Registrar (I), Co-operative Societies, Chandigarh.



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7. The civil suit filed by the respondent was dismissed on the ground of being barred by limitation as well as on the ground that the order dated 10.07.1989 passed in revision petition was never challenged by the respondent.

8. A perusal of the record further shows that the respondent sought declaration by way of civil suit to the effect that order of dismissal dated 06.03.1986 passed by the Administrative Committee of Markfed as well as the appellate order dated 23.07.1986 passed by the Board of Directors of Markfed and order passed in the revision on 10.07.1989 by the Additional Registrar (I), Co-operative Societies, Chandigarh, were illegal, void and liable to be set aside. It was specifically alleged in paragraphs No.9, 10 and 14 of the plaint that order passed in revision on 10.07.1989 was also illegal and void. Therefore, the learned Additional District Judge, Ferozepur, rightly observed that the learned Additional Civil Judge (Senior Division), Fazilka, committed an error in not appreciating the contents of plaint as a whole, but the suit was dismissed only by relying upon the prayer clause, whereas, the respondent challenged the order dated 10.07.1989 passed in revision as well in the civil suit filed by him.

9. So far as the issue of the civil suit being barred by limitation is concerned, it is evident that respondent challenged order dated 10.08.1989 passed by the revisional authority. Admittedly, the suit can be filed within a period of three years from the date of passing of order. The respondent filed the civil suit i.e. Case No.113-1 of 12.6.91 for challenging not only the order



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of dismissal from service, but also the appellate and revisional orders in the year 1991. Therefore, the learned Additional Civil Judge (Senior Division), Fazilka, failed to appreciate the very fact that the civil suit filed by the respondent was well within the prescribed period of limitation.

10. So far as the order of dismissal from service dated 06.03.1986 is concerned, a perusal of the record shows that copies of documents and list of witnesses were never supplied to the respondent at the time of inquiry and even perusal of copy of charge-sheet, which is Exhibit D1, does not show that list of witnesses to be examined was given to the respondent. A perusal of zimini order dated 06.07.1983 recorded in the inquiry file, Exhibit D3, by the Inquiry Officer itself shows that the respondent sent a telegram for expressing his inability to attend the inquiry proceedings due to meeting with the Chairman at Ludhiana, but despite that statements of PW1 and PW2 were recorded on the very same day by the Inquiry Officer in the absence of respondent. There is nothing in the inquiry file to show that after appointment of Inquiry Officer and Presenting Officer or at the time of serving of charge-sheet or before that list of any witness to be examined in the departmental inquiry was given to the respondent. A photocopy of telegram sent by the respondent to the Inquiry Officer for 06.07.1983 reveals that the respondent was called to attend the meeting by the Chairman at Ludhiana and as such, he was unable to attend the inquiry. In fact, the inquiry file shows that the respondent was deputed for urgent official work on 06.07.1983 because of which he could not appear in the



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departmental inquiry, still the Inquiry Officer conducted preliminary inquiry against respondent and two important witnesses were examined on 06.07.1983 itself, which shows that the respondent was denied opportunity to cross-examine the material witnesses on 06.07.1983. Therefore, the inquiry proceedings, whereby, principles of natural justice were not followed itself were illegal and bad in the eyes of law. Since, apparently the dismissal order was passed in violation of principles of natural justice, therefore, the appeal filed by the respondent was rightly accepted by the learned Additional District Judge, Ferozepur, vide its judgment and decree dated 08.11.2000. Vide judgment and decree dated 08.11.2000, the appeal filed by the respondent was accepted and the judgment and decree dated 19.11.1996 passed by the learned Additional Civil Judge (Senior Division), Fazilka, was set aside. However, the appellant was granted opportunity to proceed afresh against the respondent.

11. Vide order dated 26.02.2001, operation of the judgment and decree dated 08.11.2000 passed by the learned Additional District Judge, Ferozepur, was stayed by this Court.

12. Hon'ble the Supreme Court in **Punjab National Bank and others Vs. Kunj Behari Misra, 1998 (7) SCC 84**, held as under:-

“Both the respondents superannuated on 31st December, 1983. During the pendency of these appeals Misra died on 6th January, 1995 and his legal representatives were brought on record. More than 14 years have elapsed since the delinquent officers had superannuated. It will, therefore, not be in the



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interest of justice that at this stage the cases should be remanded to the disciplinary authority for the start of another innings. We, therefore, do not issue any such directions and while dismissing these appeals we affirm the decisions of the High Court which had set aside the orders imposing penalty and had directed the appellants to release the retirement benefits to the respondents. There will, however, be no order as to costs.”

13. In the present case, the respondent had already retired on 30.01.2006 and in view of the above referred to judgment passed by Hon’ble the Supreme Court in **Kunj Behari Misra’s** case, it will not be in the interest of justice to remand the matter to the disciplinary authority after a period of almost 19 years, to proceed afresh against the respondent. Furthermore, it is noteworthy that the operation of the judgment and decree dated 08.11.2000 was stayed by this Court vide its order dated 26.02.2001.

14. Consequently, the present regular second appeal is **dismissed** being devoid of any merit. Judgment and decree dated 08.11.2000 passed by the learned Additional District Judge, Ferozepur, is upheld and the civil suit of the respondent is decreed in his favour. Parties are left to bear their own costs.

15. The present regular second appeal was filed in the year 2001 and while admitting the present appeal, operation of the impugned order dated 08.11.2000 passed by the learned Additional District Judge, Ferozepur, was stayed by this Court vide order dated 26.02.2001. Respondent retired in the year 2006 and this appeal is decided after 19 years from the date of



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retirement of the respondent and after almost 24 years from the date of filing of present appeal (2001). Therefore, justice demands that respondents be not pushed to further round of litigation to receive his retiral benefits, which he is entitled to. Hence, the appellant is directed to calculate the retiral benefits along with interest @ 9% per annum and disburse the same in the account of the respondent within a period of four months from the date receipt of certified copy of this judgment. Respondent is directed to furnish his bank account details to the appellant.

16. Decree sheet be drawn.

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

(SUDEEPTI SHARMA)
JUDGE

07.05.2025

Virrendra

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No