

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

R.S.A No. 1711 of 2013 (O&M)

Date of decision:- 26.05.2015

Jagtar Singh Dutta

...Appellant

Versus

Punjab State & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Nirmal Singh, Advocate
for the appellant.

Mr. Vaibhav Sharma, DAG, Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

The present regular second appeal is against the judgment and decree dated 08.01.2013 whereby the judgment and decree dated 30.7.2011 passed by Civil Judge (Jr. Divn.) Amritsar was dismissed.

Brief facts of the case put forth by the appellant is that he joined the department as Sub Inspector in the month of November, 1963 and was promoted as Inspector in the year 1968 with place of his posting at Jalandhar. He served at various places in that capacity and was promoted as Assistant Food and Supplies Officer, when retired on 30.09.1998. He was posted as Inspector in P.R. Centre, Chehharta in April, 1982 under respondent No. 3 and worked up to 30.03.1984

when he was transferred to Gurdaspur. The respondents coined two false cases of irregularities with allegations of shortage of wheat against the appellant during that period. A show cause notice was issued to him by the Director, Food and Supplies, Punjab Chandigarh on 06.02.1991 when appellant was posted as Inspector at Gurdaspur. In the said show cause notice, it was alleged that why shortage of food grains amounting to Rs.21,33,885.79/- be not recovered from the appellant during his posting in P.R Centre Chehharta under control of respondent No. 3. A reply dated 21.04.1991 was given by the appellant explaining his position. The matter was inquired into and after completion of Inquiry, the Inquiry Officer exonerated the appellant finding that he was not liable for the alleged shortage. The appellant was also exonerated by the Director, Food and Supplies, Chandigarh vide order dated 06.02.1995. However, the Director, Food and Supplies, Punjab Chandigarh had passed an order dated 09.09.1999 for recovery of an amount of Rs.46,433/- from gratuity of the appellant on account of damage caused to the wheat crop due to the pest attack and further FCI had imposed quality cut. The appellant had admitted the receipt of show cause notice and further that a sum of Rs.46,000/- had been recovered from him since he had not appeared despite notice. Reference was made to Rule 5 of the Punjab Civil Services (Punishment and Appeal) Rules which deals with penalties,

which can be imposed on government employees. Under the head 'Minor Penalties', recovery from pay of the whole or part of any pecuniary loss caused by such government employee to the government by his negligence or breach of orders, can be made. That means, recovery of the loss caused to the government from the pay of government employee is a minor penalty. Rule 10 of the above Rules deals with procedure for imposing minor penalties. Accordingly to this rule, holding of departmental inquiry is not necessary and simply a show cause notice is to be issued to the employee containing the imputations of misconduct or misbehaviour with proposal to take action against him, giving him reasonable opportunity of making such representation as he may wish to make against such proposal.

In the present case, show cause notice was issued to the appellant and an opportunity of being heard was granted to him.

Further as per Rule 2.33 of the Punjab Financial Rules every government employee should realize fully and clearly that he will be held personally responsible for any loss sustained by Government through fraud or negligence on his part and he will also be held personally responsible for any loss arising from fraud or negligence on the part of any government employee

The trial Court decreed the suit of the appellant by entitling the appellant to recover Rs.42,433/- from the respondents

with 6% interest p.a pendente lite

On appeal filed by the State, the lower Appellate Court reversed the findings of the trial Court and reference was made to D.W.1 Accountant from office of District Food and Supplies Controller, Amritsar in his affidavit D.W.1 has explained that the appellant had received the notice and was given an opportunity of hearing. The Lower Appellate further clarified that a sum of Rs.46,433/- had been deducted on account of loss caused by the appellant and not Rs.1,64,241.65.

Further reference was made to Rule 5 and 10 of the Punjab Civil Services (Punishment and Appeal) Rules and as per Rule 2.33 of the Punjab Financial Rules every government employee should realize fully and clearly that he will be held personally responsible for any loss sustained by Government through fraud or negligence on his part .

The judgment and decree dated 08.01.2013 passed by the lower Appellate Court, calls for no interference by this Court. No substantial question of law arises for adjudication by this Court.

Accordingly, appeal is dismissed.

May 26, 2015

G Arora

(**RITU BAHRI**)
JUDGE