

207.

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

Civil Revision No.842 of 2014 (O&M)

Date of decision:27.05.2016

Atma Singh and others

... Petitioners

versus

Punjab State Civil Supplies Corporation Limited, Chandigarh and
another.

.... Respondents

& Civil Revision Nos.843 to 845 and 907 of 2014 (O&M)

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Parminder Singh-I, Advocate,
for the petitioners.

Ms. Deepali Puri, Advocate,
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. All the five petitions concern the same issue and they are taken up together. They are brought at the instance of persons, who admittedly were employees with PUNSUP. The suits have been filed for recovery of damages alleged to have been caused by the employees during their services of not taking appropriate care and protecting the interest of assets of PUNSUP that resulted in loss of grains and there resulted financial loss. The applications for

rejection of the plaint were filed by employees making reference to the judgment of the Supreme Court in **Punjab State Civil Supplies Corporation Limited Versus Sikander Singh-AIR 2006 Supreme Court 1438** which dismissed the suit for recovery sought by PUNSUP against its employees for alleged loss in similar circumstances. The objection was upheld and the plaint had been ordered to be rejected. Against the order of rejection, an appeal had been filed by the plaintiff which has been allowed. Against the said decision, it should have been possible to file only a second appeal but, however, the matter has been registered as civil revisions and brought before this court, I have examined the cases on the point urged and I will dispose them off as if they were second appeals brought for consideration on the correctness of the order passed by the appellate court. The only substantial point that would fall for consideration would be:

Whether a suit for damages against the employees incompetent in the law laid down by the Supreme Court in **Sikander Singh's case** (supra)?

2. I have examined the judgment. That was a case where departmental action had been taken against the employee and the employee was found to be guilty. As a measure of penalty, the employee was directed to take responsibility for 2/3rd of the shortages and in the appeal filed by the employee, the appellate

authority had directed to deposit the requisite number of bags of wheat or pay the price thereof. The said judgment had attained finality. The employee had actually deposited the requisite number of bags as directed by the appellate authority and the conduct of the employee resulted in reinstatement pursuant to the order passed by the High Court as well as the Supreme Court. For the Act of misconduct, the employee had been denied backwages. Subsequent to all these proceedings, the department reopened the matter again claiming damages by means of a suit. It was in such a situation that the court found that separate suit is not maintainable. This can hardly be stated as an authority as holding that an employer is not competent to file a suit against the damages. The learned counsel for the petitioners wants to still make a parallel to the present situation with the case dealt by the Supreme Court by pointing out that in this case, departmental action was initiated but it did not precipitate in taking any action. This, according to him, means that there was no misconduct and consequently, the suits will not be barred. There is nothing inherently improper about an employer filing a suit for damages for the loss alleged to have been caused. It is essentially a matter of civil nature and I find no scope for knocking off it at the threshold. There is no bar in law that operates to invoke the provision of Order 7 Rule 11 CPC. I am informed that other suits similarly instituted were all upheld by this court in revision

brought by certain other employees. The order passed by the appellate court allowing for the further progress of the suit was perfectly justified and I find no reason for interference in revisions or if they are to be treated as second appeals as not requiring any interference as the substantial question raised is answered against the petitioners.

3. The judgments of the court below are confirmed and the revision petitions are dismissed.

(K.KANNAN)
JUDGE

27.05.2016
sanjeev