

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

RSA No. 1204 of 1991

Date of decision:-08.08.2016

Haryana State Agricultural Marketing Board and another

.....Appellants

Versus

Parshadi Lal

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. C.B. Goel, Advocate, for the appellants.

Mr. Kamal Sharma, Advocate, for the respondent.

P.B. BAJANTHRI, J. (ORAL)

The petitioner has questioned the order of the appellate Court dated 27.2.1991.

The respondent-workman was working as Junior Engineer. While working as Junior Engineer in the appellant-Board at the Mohna District Faridabad he was incharge of stores material. The appellants found that there were damages to 140 bags of cement in the stores. The respondent-workman who was incharge of stores was alleged to be responsible for causing damage to the cement bags. Based on the allegations, it was ordered that workman was liable to pay an amount of ₹5852/- which has been quantified towards 140 bags of cement. Office order dated 06.07.1985 which reveals allegation No. 1 and 2 and determination of loss caused to the Board to the extent of

₹5852/-, which shall be recovered from the respondent-workman. Show cause notice was issued by the appellant Board on 27.10.1982 and explanation was sought and thereafter the Board proceeded to pass order of recovery.

Admittedly, no inquiry has been held. Learned counsel for the appellant submitted that recovery of amount of ₹ 5852/- is a minor penalty which can be ordered without resorting to departmental inquiry. Thus, there is no infirmity in the order of the recovery. It was further submitted that the trial Court has not taken note of Section 31 (2) of Punjab Agricultural Produce Marketing Act, 1961 and further respondent has not exhausted remedy of appeal. Therefore, the appellate Court has committed error in not considering those two issues. Therefore the appellate Court order is liable to be set aside.

Per contra learned counsel for the respondent-workman submitted that the recovery order dated 06.07.1985 is without holding any inquiry. Therefore, one need not exhaust remedy of appeal and the order itself is contrary to the disciplinary rules. In the present case because of the respondent-workman's negligence 140 cement bags have been damaged consequently loss caused to the board. Ultimately loss caused to the board is required to be proved in departmental inquiry. Therefore, the Board directly ordering for recovery is impermissible.

Admittedly, no inquiry has been held. The allegations is that due to negligence of the workman 140 bags of cement lying in the stores under the charge of workman were completely damaged. Thus, it is evident that at the behest of the workman's negligence loss has been caused to the Board to the tune of ₹ 5852/-. Whether workman's negligence is there or not

is to be proved in the disciplinary proceedings only. Ordering recovery of ₹5852/- without proving the allegations in an inquiry is highly arbitrary and illegal therefore the appellants have not made out a case, so as to interfere with the appellate Court order.

Appeal dismissed.

(P.B. BAJANTHRI)
JUDGE

08.08.2016

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Whether speaking/reasoned	Yes/No
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Whether reportable	Yes/No
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