

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

RSA No.2991 of 2009 (O&M)

Date of Decision:24.10.2016

Kewal Krishan Wadhwa

... Appellant

Vs.

Punjab State Warehousing Corporation

... Respondent

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

Present : Mr. Ashwani Talwar, Advocate for the appellant.

Mr. B.R. Bansal, Advocate for the respondents.

P.B. BAJANTHRI J.

The appellant has questioned the validity of the appellate court order dated 25.4.2009.

The appellant while working in the Punjab State Warehousing Corporation is stated to have been defalcation of money to the extent of Rs.2,10,29,077/-. He was subjected to disciplinary proceedings and it was concluded in imposing of punishment of dismissal from service. Feeling aggrieved by the order of dismissal, he preferred a department appeal before the Appellate Authority on 2.10.2004. Thereafter, he filed civil suit No.626-I of 14.12.2004. Suit was decreed in favour of the appellant. Consequently, the respondent-Punjab State Warehousing Corporation preferred an appeal before the Appellate Court. The Appellate Court reversed the decision of the trial Court and passed order in favour of the Punjab State Warehousing Corporation. Thus, the appellant has presented the present Regular Second Appeal questioning the validity of the Appellate Court order dated 25.4.2009.

During the pendency of the present appeal, on 12.10.2012,

Appellate Authority on the departmental side dismissed the appeal filed by the appellant.

Learned counsel for the appellant submitted that the appellate court while reversing the trial court order held that departmental inquiry was held properly. Consequently, order of the trial court is liable to be reversed. Therefore, the matter requires to be remanded to the appellate court for want of non-consideration of other contentions raised. It is further stated that during pendency of the litigation, the appellant is stated to have died.

On the other hand, learned counsel for the respondent submitted that the appellant failed to pursue the departmental appeal which was filed on 2.10.2004 and it was decided on 12.10.2012. Deciding of appeal by the appellate authority on 12.10.2012 is at the behest of this Court.

In view of the above facts and circumstances, instead of remanding the matter to the appellate court, the legal heirs of appellant are given liberty to challenge the appellate authority order dated 12.10.2012 which is in accordance with the disciplinary proceedings of Punjab State Warehousing Corporation. Having regard to the statutory remedy, the legal heirs are at liberty to challenge the appellate authority order dated 12.10.2012 before appropriate forum. Decision of the trial court as well as appellate court would not be a hurdle.

Accordingly, the present appeal stands dismissed.

24.10.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No