

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No. 2614 of 2011(O&M)
Date of decision: 28.11.2016**

PUNSUP

...Appellant

Vs.

HARNEK SINGH

...Respondent

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

Present: Ms. Deepali Puri, Advocate for the appellant.

Mr. Harit Sharma, Advocate for the respondent.

P.B. BAJANTHRI, J.(ORAL)

The appellant has questioned the validity of the appellate Court order dated 11.06.2010 passed in Civil Appeal No. 3 of 2010. The respondent while working as Inspector, he is alleged to have committed certain irregularities for which the appellants have initiated the disciplinary proceedings by framing charges, which read as under:-

- (i) That he had purchased the wheat for the crop year 1981-82 and 1982-83. After his transfer to Faridkot at the time of audit of sales/despatch of wheat there was a shortage of 4444-95-800 quintals the value of which works out to Rs. 800,092-44 which is recoverable from him;
- (ii) That due to deterioration of stocks of 1981-82 and 1982-83, the same were sold through auction, and corporation had to suffer a loss of Rs. 6,78,719-94 and Rs. 7,07,060-54

respectively which is recoverable from him;

- (iii) Regarding above shortage the District Manager, Punsup, Ropar had issued letters on 15.2.85, 11.3.85, 22.3.85 and 29.4.85 for depositing the above recovery, but no reply was received. From which it seems that he was irresponsible, careless and doing the mis-appropriation of stocks and causing loss to the Corporation”.

Arising out of initiation of the inquiry dated 19.05.1986, the disciplinary authority while exercising Power under Rule 5 of the Punjab Civil Services (Punishment and Appeal Rules) 1970 imposed the penalty of dismissal from service on 04.01.1990. The appellant thereafter, initiated suit for recovery proceedings before the trial Court in the month of March, 1987. Employees of the appellant are governed by the Punjab Civil Services (Punishment and Appeal Rules) 1970, for the purpose of misconduct if any, committed by them.

In the present case the respondent has committed certain financial irregularities, for which disciplinary proceedings have been initiated on 19.05.1986. At the same time during the pendency of the disciplinary proceedings the appellant has resorted to file a suit for recovery proceedings. When the appellant has already resorted to proceed under the Punjab Civil Services (Punishment and Appeal Rules) 1970 filing, suit for recovery is impermissible.

Moreover, the respondent after order of dismissal has not challenged the validity of the dismissal order. When the very initiation of charge memo is relating to monetary loss caused to the appellant-Corporation, the disciplinary authority had never ordered for recovery under the Punishment and Appeal Rules. Recovery is one of the penalty under the Punishment and Appeal Rules.

In view of these facts and circumstances, the appellant has not made out a case so as to interfere with the order of the appellate Court.

Appeal stands dismissed.

November 28, 2016
Poonam (II)

(P.B.BAJANTHRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Ye</i>
<i>Whether reportable:</i>	<i>No</i>