

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

Date of Decision : 18.01.2016

**1) CM No.15587-C of 2015 in/and
RSA No.276 of 2014**

Punjab State Warehousing Corporation

..... Appellant

Versus

Gurnam Singh and others

..... Respondents

**2) CM No.4606-C of 2014 in/and
RSA No.1887 of 2014**

Gurnam Singh

..... Appellant

Versus

Punjab State Warehousing Corporation and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Vikas Singh, Advocate
for the appellant (in RSA No.276 of 2014)
for the respondents (in RSA No.1887 of 2014)

Mr. J.P. Rana, Advocate
for the respondent (in RSA No.276 of 2014).
for the appellant (in RSA No.1887 of 2014).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

C.M. No.15587-C-2015

For the reasons recorded, the application is allowed subject to all just exceptions. The correct copy of the judgment and decree of the lower Appellate Court is taken on record.

C.M. No.4606-C-2014

For the reasons recorded, the application is allowed. Delay of 59 days in filing the appeal bearing RSA No.1887 of 2014 is condoned.

R.S.A No.276 & 1887-2014

Since the issue is same both the appeals are decided by the common order. For the sake of convenience, the facts are being taken from RSA No.276 of 2014.

These appeals have been filed against the judgments of the Courts below. The employee-Gurnam Singh was charge-sheeted and was imposed two penalties. The first one was the major penalty of stoppage of one increment with cumulative effect and second one was the penalty of recovery of Rs.3,00,129.90/-. He filed a suit for declaration challenging the said order and the trial Court decreed the suit partly by setting aside the recovery but upheld the imposition of stoppage of one increment by holding that under the Punjab Civil Service Rules (which were applicable to the employer) the punishment of recovery was a major punishment and consequently for the same act two punishments cannot be visited upon the employee. Both the appellant-employer as well as the respondent-employee filed separate appeals but the same have been dismissed by the lower

Appellate Court. Hence, both the appellant-employer as well as the respondent-employee are before this Court.

The Appellate Court has relied upon the judgment of a Division Bench of this Court in the matter of ***Punjab State Co-operative Supply and Marketing Federation Ltd. vs. Gurdarshan Pal Singh Bhaia, LPA No.1524 of 2011 (O&M) decided on 01.11.2012***, in which it was observed as follows:-

“It is clear from the reading of this rule that recovery from pay of the whole or part of any pecuniary loss caused by the charge-sheeted employee is treated as one of the penalties which can be imposed and is a minor penalty. Likewise, withholding of increments with or without cumulative effect is also mentioned as a separate penalty. Though it is categorised as a minor penalty, as per the judgment of the Supreme Court in the case of Kulwant Singh Gill vs. The State of Punjab, 1991 (2) SCT 30, whenever such punishment is imposed with cumulative effect, it is to be treated as major penalty. It is clear from the above that the respondent was inflicted with two penalties, namely, one minor penalty of recovery of the pecuniary loss caused by him and the other major penalty of withholding of three increments with cumulative effect. Going by these considerations, the learned Single Judge has rightly held that it is a case of double jeopardy and there could not have been two penalties imposed upon the respondent at the same time. The learned Single Judge has, thus, set aside part of the penalty order, to the extent of imposing minor punishment of recovery and the other major penalty of withholding of three increments with cumulative effect is sustained.”

Learned counsel for the appellant-employer has relied upon the

judgment of the Hon'ble Supreme Court in the matter of *Depot Manager, A.P.S.R.T. Corpn. vs. N. Ramulu, 1997(11) SCC 319*, to contend that where recovery of loss was ordered with other punishment, then it is not a case of double jeopardy. However, learned for the respondent-employee has argued that in that case there was a specific provision in the regulation which permitted recovery apart from other penalties whereas in the present case recovery is also one of the penalties prescribed under the rules.

I find that this is indeed so. In the circumstances, Depot Manager's case (supra) would not be applicable to the present case and the Division Bench judgment of this Court would be binding on this Bench.

As regards the appeal filed by the respondent-employee, learned counsel for the respondent has argued that the negligence was not established. In my opinion, that is a pure question of fact.

Resultantly, both the appeals are dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

January 18, 2016

ashish

**(AJAY TEWARI)
JUDGE**