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

CWP-27599-2018

Date of Decision: February 24, 2020

Shakuntla Devi

.....Petitioner

Versus

Haryana Agro Industries Corporation Limited

.....Respondent

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Arvind Seth, Advocate
for the petitioner.

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NIRMALJIT KAUR, J. (ORAL)

Prayer in the present petition is to quash the show cause notice, dated 09.04.2020, issued by the respondent-Corporation for recovery of Rs.6,88,922/- as well as orders dated 18.07.2016 and 02.02.2018, vide which an amount of Rs.4,48,294/-, which was payable to late Shri Ram Niwas, Ex-Salesman, has been ordered to be recovered.

While praying for setting aside the same, learned counsel for the petitioner contended that the said show cause notice was issued without conducting any kind of departmental enquiry and without assessing the loss. Husband of the petitioner died on 28.09.2012. Accordingly, the petitioner (wife of late Sh.Ram Niwas) vide her letter dated 19.11.2012 informed the respondent about the death of her husband and consequent release of the financial assistance, in accordance with the Rules. After about 1 ½ years, the respondent-corporation vide its office order dated 09.06.2014 ordered the release of financial assistance to the petitioner. She was granted the

financial assistance @ Rs.29,086/- per month, which was the last pay drawn by the petitioner's husband. However, after the date of retirement, the petitioner requested for release of retiral benefits. However, the retiral benefits too were sanctioned but the same were released after deducting Rs.4,21,254/- as well as the loan amount of Rs.27,040/- which were stated to be towards shortage of wheat and bardana and computer loan. On representation made by the petitioner, only an amount of Rs.27,040/-, which was outstanding towards computer advance, was waived off but the amount of Rs.4,21,254/- was ordered to be adjusted against the payable dues of late Shri Ram Niwas.

Reply has been filed. As per the reply, the husband of the petitioner did not submit reply to the show cause notice, dated 09.04.2010, therefore, the amount of loss, as assessed, has been ordered to be recovered from the retiral benefits.

It is evident from the reply of the respondent that the show cause notice was issued to the husband of the petitioner way back on 09.04.2010. No doubt, husband of the petitioner did not file any reply but the respondent too did not take any action against husband of the petitioner, while he was alive. He died on 28.09.2012 and the amount was ordered to be recovered from his retiral benefits, which accrued to him and now to his wife in the year 2015. It is a settled proposition of law that no order can be passed behind the back of a person and that too without holding any enquiry. In the present case, the same has been ordered to be recovered after the death, which is even worse. The submission in the written statement that husband of the petitioner did not file any reply to the show cause notice does

Corporation from passing an order while he was alive. They did not pass any order uptill his death, i.e.28.09.2012. Therefore, any order having been passed without following the principles of natural justice and that too after his death cannot be sustained.

Accordingly, the petition is allowed. The orders, dated 09.04.2010, 18.07.2016 and 02.02.2018 are set aside. Respondent-Corporation is directed to release the amount, so ordered to be deducted vide the impugned order, dated 18.07.2016 within two months from the date of receipt of a certified copy of this order alongwith 6% interest till its realization.

February 24, 2020
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(NIRMALJIT KAUR)
JUDGE

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|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |