



**CM-4623-C-2024 in/and
RSA-2519-1993 & connected case 1**

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

**(101) CM-4623-C-2024 in/and
RSA-2519-1993
Date of Decision : May 08, 2024**

Punjab State Warehousing Corporation .. Petitioner

Versus

Gurbax Singh .. Respondent

**(101-A) CM-4711-C-2024 in/and
RSA-2262-1995**

Punjab State Warehousing Corporation .. Petitioner

Versus

Ramesh Kumar .. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amardeep Singh Sukhija, Advocate,
for the applicant-appellant in both appeals.

Mr. Gurmeet Singh Saini, Advocate, for
Mr. S.C. Chhabra, Advocate, for respondent
in RSA-2519-1993 .

HARSIMRAN SINGH SETHI J. (ORAL)

**CM-4623-C-2024 in RSA-2519-1993
CM-4711-C-2024 in RSA-2262-1995**

Present applications have been filed for recalling the order
dated 10.04.2024, by which, the present appeals were dismissed for non-
prosecution.



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Keeping in view the averments made in the applications, which are duly supported by an affidavit, the same are allowed. The order dated 10.04.2024 is recalled and the appeals are restored to its original number and status.

RSA-2519-1993 & RSA-2262-1995

1. By this common order, two appeals, the details of which have been given in the heading, are being disposed of as both the appeals involve the same question of law on similar facts.

2. In the present appeals, the challenge is to the judgments/decrees passed by the Courts below by which, the suit filed by the respondent-plaintiff challenging the order of punishment imposed upon them has been allowed and appeal filed by the appellant/defendant has been dismissed.

3. Learned counsel for the appellants has raised the argument that the order of punishment challenged was appealable and without exhausting the remedy of appeal, the suit was filed hence, the suit should not have been entertained.

4. The second argument raised is that the Court at Ferozepur did not had the jurisdiction to entertain the suit filed by the respondent-plaintiff.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Merely that the remedy of appeal was available to be filed, cannot be treated as a valid ground now in the regular second appeal to set aside the impugned judgments/decrees so as to uphold the impugned order

of punishment especially when, concurrent findings have been recorded by

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the Courts below qua the order imposing penalty that the same is invalid. It has already come on record that a major punishment was imposed upon the respondent-plaintiff as per the rules governing the service and that too without holding an enquiry. Once a departmental enquiry was required to be held in order to prove the said allegations alleged against the respondent-plaintiff, has not been held in accordance with the Rules governing the service hence, the penalty imposed upon respondent-plaintiff when challenged before the Court, the same has rightly been entertained by the Courts below hence, the judgments and decrees of the Courts below cannot be faulted on this account.

7. The second argument which has been raised qua the respondent-plaintiff Gurbax Singh with regard to the territorial jurisdiction of filing the civil suit. It is a conceded fact that at the time when the show cause notice was served upon respondent-plaintiff Gurbax Singh, he was posted at District Ferozepur. Even the order of punishment which was passed, has been conveyed to him in Ferozepur though, at later point of time, he got shifted to Faridkot. Once the show cause notice which culminated into the imposition of punishment was issued to the respondent-plaintiff at Ferozepur, it cannot be said that the Court at Ferozepur did not had the territorial jurisdiction. It is also a conceded position which the learned counsel for the appellants conceded at the time of hearing was that the impugned order of punishment was conveyed to Gurbax Singh at Ferozepur only. That being so, it cannot be said that the suit was filed in a Court which did not had the territorial jurisdiction to decide the same. Once the impugned order was conveyed to the respondent-plaintiff at Ferozepur,



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the Ferozepur Court was having jurisdiction, which view of the Courts below is perfectly valid and legal.

8. With regard to the respondent-plaintiff Ramesh Kumar, learned counsel for the appellants submits that though, initially order of punishment was passed against the respondent-plaintiff after holding a departmental enquiry and as per the original punishment he was dismissed from service but later on, in an appeal, the said order was modified and the liability of Rs.32,659/- was imposed upon him. The Courts below have already recorded the finding that while passing an order of punishment holding the respondent-plaintiff liable for the payment of Rs.32,659/-, the regular enquiry was needed, which was not held. Hence, once it is a conceded position that the regular enquiry which was envisaged under the Rules, was not held before imposing the liability of Rs.32,659/- upon the respondent-plaintiff, the judgment and decree of the Courts below is perfectly valid and legal that the process envisaged under the Rules was not followed before imposing the punishment due to which, the impugned order of recovery of the amount was set aside. Nothing has been shown to this Court that the judgments and decrees of the Courts below are perverse in any manner.

9. No other argument was raised.

10. Keeping in view the above, no ground is made out for any interference by this Court in the present appeals.

11. Both the appeals are accordingly dismissed.



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12. A photocopy of this order be placed on the file of other
connected case.

May 08, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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