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

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RSA-3538-2017 (O&M)
Date of Decision :22.05.2024

Punjab State Warehousing Corporation**...Appellant****Versus****Bhupinder Singh****....Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Tarun Seth, Advocate for Mr. Sumit Jain, Advocate
for the appellant.

Mr. L.M. Gulati, Advocate for the respondent.

* * *

Harsimran Singh Sethi, J. (Oral)

Present regular second appeal has been filed challenging the judgment and decree of the Courts below by which, the civil suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 22.09.2015, which judgment and decree of the trial Court has been upheld by the lower Appellate Court vide order dated 17.12.2016.

Learned counsel for the appellant-plaintiff argues that the reasons given by the Courts below for dismissing the civil suit filed by the appellant-plaintiff are incorrect. Learned counsel for the appellant-plaintiff submits that once, the respondent-defendant was held guilty in the



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disciplinary proceedings conducted by the department concerned and order of punishment was passed against him on 08.01.2003 imposing the punishment of recovery of the amount, the jurisdiction exists with the appellant-plaintiff to recover the said amount by filing a civil suit. Learned counsel for the appellant-plaintiff further submits that there was no jurisdiction with the trial Court or lower Appellate Court to comment upon the disciplinary proceedings initiated by appellant-department as the said disciplinary proceedings had attained finality qua the respondent-defendant and hence, the Court could not have sat as an appellate authority to opine whether the recovery from the respondent-defendant can be ordered in pursuance to the punishment order dated 08.01.2003.

Learned counsel for the respondent-defendant submits that the suit filed by the appellant-plaintiff has been dismissed being time barred on the ground that right to claim the amount in question accrues from the date the punishment order was passed i.e. 08.01.2003, which amount sought to be recovered by filing a civil suit but as the civil suit was filed after a period of 09 years, the same has rightly been dismissed by both the Courts below.

Learned counsel for the respondent-defendant further submits that right accrues to claim recovery by filing a civil suit qua the punishment imposed upon him in the departmental proceedings in the year 2003 hence, the view taken by the Courts below is perfectly valid.

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

Once, an employee has been held guilty in the departmental



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proceedings and the punishment of recovery has been imposed upon him and the employee failed to comply with the said order of punishment dated 08.01.2003, the department by placing reliance upon the order of punishment can file a civil suit, in case, any such remedy is available.

The only jurisdiction of the Court is to see whether the order of punishment has attained finality or not. Once, the employee concerned does not challenge the order of punishment, the Court cannot sit in appeal qua the said order so as to deny the department recovery rights as per punishment imposed. The findings recorded by the Courts below that the imposition of punishment of recovery of loss upon the respondent-defendant in the departmental proceedings cannot be a ground to recover the amount, cannot be upheld hence, the view of the Courts below qua the said aspect is accordingly set aside.

In the present case, punishment was imposed upon the respondent-defendant on 08.1.2003 and right to claim the said amount accrued on the said date. The limitation to claim the said amount is three years. Concededly, the civil suit was filed in the year 2012. The argument being raised by the learned counsel for the appellant that against the order of punishment, an appeal was filed by the respondent-defendant and as the said appeal attained finality in the year 2011 and within three months of the decision of the appeal, civil suit was filed, which should be treated within the period of limitation, cannot be accepted as the limitation is to be seen from the date the right accrues to sue to claim the amount in question. In the present case, right to sue accrues on 08.01.2003. Even if, the respondent-



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defendant had preferred an appeal, in case, he had not paid the amount, the department should have exercised its right to claim the said amount.

Even otherwise, nothing has been brought to the notice of this Court that in an appeal preferred by the respondent-defendant, any stay was granted so that the punishment order could not have got executed by filing a civil suit within a period of 03 years starting from 08.01.2003.

In the present case, the findings recorded by the Courts below that the suit was not filed within the period of limitation cannot be treated as perverse keeping in view the facts and evidence, which had already come on record.

No other argument has been raised.

Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the present regular second appeal is accordingly dismissed subject to the observation made hereinbefore.

Civil miscellaneous application pending, if any, is also disposed of.

May 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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