

(2006) 08 P&H CK 0229

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No's. 3078 and 3249 of 2001

Punjab State Warehousing Corporation

APPELLANT

Vs

Kiran Singh and Others
 The Managing Director, Punjab
State Warehousing Corporation Vs Kiran Singh and Another

RESPONDENT

Date of Decision : 01-08-2006

Acts Referred:

Citation : (2006) 08 P&H CK 0229

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Sanjeev Sharma, for the Appellant; Manu K. Bhandari, for the Respondent

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—By this judgments, three Regular Second Appeals bearing nos. 3078 & 3249 of 2001 and 1160 of 2003 are being disposed of as they involve common questions of facts. The Punjab State Warehousing Corporation (hereinafter described as 'the Corporation') filed suits for recovery of different amounts along with interest against the respondents, who are its employees, on account of defalcation in urea and shortage of rice etc. The trial Court dismissed the suits and in appeals, the findings recorded by it were affirmed by the lower Appellate Court. However, in R.S.A. No. 3078 of 2001, the lower Appellate Court, while parting with the judgment, had observed as under:

The up shot of the whole discussion is that the appeal filed by the plaintiff-Corporation is without any substance and is hereby dismissed with costs. The dismissal of the appeal of the plaintiff appellant will, however, be without prejudice to their rights to take necessary action in the light of the fresh enquiry report copy Ex.D18 conducted in the case. Decree Sheet be prepared. File be consigned to record room.

2. At the time of issuance of notice of motion in R.S.A. No. 3078 of 2001, learned

Counsel for the appellant had contended that as far as respondent nos. 2 and 3 are concerned, he has no objection if the impugned judgments are held to be final against them and his grievance is only against respondent no.1. This appeal will, therefore, be treated only qua respondent no.1-Kiran Singh. A perusal of the record of this appeal shows that in the disciplinary proceedings conducted by the Corporation, the Appellate Authority had held that there was no loss of bags as alleged and on that account, the punishment inflicted upon Kiran Singh was reduced from that of dismissal to that of compulsory retirement and recovery. Learned Counsel for the appellant has contended that similar liberty ought to have been granted to the Corporation, as was granted by the lower Appellate Court (reproduced above) which is the subject-matter of R.S.A. No. 3078 of 2001, to take necessary action against the respondents in other appeals.

3. Learned Counsel for the respondents has, however, pointed out that there is only one enquiry which has been got conducted to which reference has been made in R.S.A. No. 3078 of 2001 and in other appeals, no fresh enquiry was conducted and, therefore, the prayer of the learned counsel for the appellant is misconceived.

4. I have considered the submissions of the learned Counsel and am of the opinion that no liberty can be granted to the Corporation to take action against the respondents, especially in view of the fact that the Appellate Authority in one of the cases, has held that there is no loss and in other connected cases, it has come to the conclusion that no recovery could be effected from respondent no.1 and thereafter, the order of punishing authority had been set aside in toto in appeal. Even otherwise, there are concurrent findings of fact recorded by the Courts below. No question of law survives in the present appeals and the same are dismissed.