

A UTTAR PRADESH FOREST CORPORATION
 LUCKNOW & ORS.

v.

VIJAY KUMAR YADAV & ANR.

B (Civil Appeal No. 6947 of 2021)

NOVEMBER 23, 2021

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

- Service Law: Punishment – Charge of causing loss to the extent of Rs.2.46 lacs was held to be proved by the enquiry officer – Punishment order for recovery of Rs.2.46 lacs passed – High Court set aside the punishment order – Held: High Court ought to have maintained the punishment order once the charge of causing loss to the extent of Rs.2.46 lacs was held to be proved by enquiry officer – Therefore, order modified to the extent of maintaining the order of punishment for recovery of Rs.2.46 lacs for the charge which was held to be proved by enquiry officer – Respondent employee has since retired on attaining the age of superannuation – Therefore, whatever further amount is due and payable towards the retirement benefits which may be available under the law, the same may be paid to the respondent after making recovery/deducting Rs.2.46 lacs.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No.6947 of 2021.

- F From the Judgment and Order dated 20.02.2019 of the High Court of Judicature at Allahabad in Writ A No.54718 of 2005.

M. R. Shamshad, Arijit Sarkar, Ms. Nabeela Jamil, Niaz A. Farooqui, Advs. for the Appellants.

- G Yatish Mohan, Achintya Tiwari, Subhash Chandra Sagar, E. C. Vidya Sagar, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

A

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 20.02.2019 passed by the High Court of Judicature at Allahabad in Writ Appeal No. 54718 of 2005, Uttar Pradesh Forest Corporation Lucknow and others have preferred the present appeal.

B

2. At the outset, it is required to be noted that vide order dated 03.07.2019, this Court issued notice limited to the extent as to whether the High Court ought to have maintained the punishment order for recovery of Rs.2,46,922.56, which was also held to be proved by the Enquiry Officer.

C

3. We have heard the learned counsel for the respective parties.

4. At the outset, it is required to be noted that in so far as the charge of causing loss to the extent of Rs.2,46,922.56, it was held to be proved by the Enquiry Officer. However, there was disagreement on the part of the Disciplinary Authority so far as other charges, which were held to be not proved by the Enquiry Officer and without issuing any notice on the said disagreement, the Disciplinary Authority proceeded further and passed the punishment order, which was held to be bad in law and against the principles of natural justice. Therefore, once the charge of causing loss to the extent of Rs.2,46,922.56 was held to be proved by the Enquiry Officer, the High Court ought to have maintained the punishment order for recovery of Rs.2,46,922.56.

D

5. In view of the above, we modify the impugned judgment and order passed by the High Court to the extent of maintaining the order of punishment for recovery of Rs.2,46,922.56 for the charge which was also held to be proved by the Enquiry Officer. It is reported that the respondent employee has since retired on attaining the age of superannuation. Therefore, whatever further amount is due and payable towards the retirement benefits, which may be available under the law, the same may be paid to the respondent after making recovery/deducting Rs.2,46,922.56.

F

6. Present appeal is accordingly partly allowed to the aforesaid extent and in the facts and circumstances of the case, there shall be no order as to costs.

G