

CWP No. 5494-1992

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

CWP No. 5494-1992

Date of Decision: 27.01.2015

The Punjab State Cooperative Supply and Marketing Federation Limited

... Petitioner(s)

Versus

Balbir Singh and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. B.S.Mangat, Advocate,
for the petitioner.

Mr. Tushar Sharma, Advocate,
for respondent no.1.

Dr. Deepa Singh, Addl. A. G.Punjab.

Paramjeet Singh, J.(Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 18.12.1991 (Annexure P-3) passed by respondent no.2-Additional Registrar (Admn.), Cooperative Societies, Punjab.

Brief facts of the case are to the effect that respondent no.1 was posted as Field Assistant in the Branch Office of Markfed at Sunam during the year 1982-83. Respondent no.1 along with Sh. M.P.S.Bahia,

CWP No. 5494-1992

S.B.O and Sh. Sher Singh, Salesman was charge-sheeted for the various charges. Charge No.1 against respondent no.1 and others reads as under:

“During your tenure as Sr. B.O/FA/Salesman at Markfed B.O. Sunam, you delivered 950 Qtls. of rejected wheat excess to M/s Hari Ram Kewal Krishan, Sunam without getting any release order from the Distt. Office Markfed Sangrur as per detail given here under:

- | | |
|--|------------------|
| <i>(1) Quantity to be delivered</i> | <i>450 Qtls.</i> |
| <i>(a) against our R.O. No.7239 dt. 14.02.83</i> | |
| <i>(b) Qty. delivered against above R.O.</i> | <i>450 Qtls.</i> |
| <i>(c) Qty. delivered against DM Office</i> | |
| <i>letter No.7228 dt. 14.02.83 which</i> | |
| <i>was addressed to DFSC Sangrur for</i> | |
| <i>issuing the expert permit.</i> | |
| <i>(d) Excess Qty. delivered</i> | <i>500 Qtls.</i> |
| <i>Total excess quantity delivered</i> | |
| <i>1(d) + 2(d) = 450 +500 = 950 Qtls.</i> | |

The second charge against respondent no.1 and Sher Singh reads as under:

“Consequent upon your transfer from Sangrur District, you were asked by the D.M. Markfed, Sangrur to hand over the charge of stocks of wheat/bardana/dead stock articles vide his order No.DM/SGR/FED/83/8166, dated 20.04.83, No.DM/SGR/FED/83/8547 dated 16.05.83 and No.DM/SGR/FED/83/8977 dated 16.6.83, but you failed to comply with his instructions. Thereafter, you were placed under suspension vide HO Order No.EST/EA-1/18792 dated 15.6.83 and so far you

CWP No. 5494-1992

have given the charge of 12271 bags of crop 82-83 on 21.6.83. You ere again asked to hand over complete charge several times but you have not given the complete charge till date. However. Shri J.R.Uppal, BO (U/S), Shri B.C.singla, FO and Shri Gopal Krishan, FA (U/S) had taken over the charge of stocks in the presence of Shri Gurdit Singh Gill, the then TO (P & Q) Sangrur. Although, you also associated with the handing over/taking over the charge of stocks, but you refused to sign the documents/charge report. The details of shortages detected is as under:

Sr. No.	Crop	Qty. No. of bags	Stored weight	Qty. over No. of bags	Taken weight	Shortage No. of wet bags		Remarks
1	82-83	7908	7895.95 (7657-100 kg. Flg) (251.95 kgs. Flg)	7500	6715.6	408	1179.85	1412.95 kgs 5738.90 kgs.
2	82-83	4210	3990.5	4210	3702.22	-	297.28	Transferred from Laxmi Oil Comp.
3	82-83	3713	3527.35	3713	3527.33	-		Lying in Kasturi godwon
4	82-83	15218	15218	15218	14304.29	-	913.71	
5	81-82	211	211	211	211	-		These 211 bags were found in excess in 82-83 and short in crop
6	81-82	2720	2714.19	2720	2714.19	-	30.96	
Total							2421.80	

CWP No. 5494-1992

The inquiry officer was appointed and inquiry was conducted. After conducting inquiry, notice was issued to respondent no.1 and vide order dated 15.02.1990 passed by M.D.Markfed, charges against respondent no.1 stood proved and he was burdened with following punishments:

“Considering all the facts of this case, I order that the two increments of Shri MPS Bahia are withheld besides recovery of loss of Rs.10,065/- being fifty percent of share on account of excess replacement of 2684 bags as per charge No.3. So far as the case of Shri B.S.Jammu, FA is concerned, I order that his four increments are withheld besides recovery of loss of Rs.85,500/- and Rs.221685/- on account of charge No.1 relating to excess delivery of 900 qtls. Of wheat and supplementary charge-sheets regarding the shortage of 2421.80 Qtls. In the case of Shri Sher Singh, S/Man, I order to withhold six increments besides recovery of loss of Rs.3,58,260/- of the following charges:-

- (a) Rs.8500/- on account of charge no.1 regarding 950 Qtls. of wheat.*
- (b) Rs.2,21,685/- on account of supplementary charge sheet regarding shortage of 2421.80 Qtls. of wheat.*
- (c) Rs.41,010/- on account of replacement of 5468 bags as per charge no.3.*
- (d) Rs.10,065/- on account of excess replacement of 2684 bags as per charge No.3.*

They shall not be paid anything over and above the subsistence allowance already drawn during the

CWP No. 5494-1992

period of their suspension.”

Against that, respondent no.1 preferred revision before the Addl. Registrar (Admn.), Cooperative Societies, Punjab exercising the powers of Registrar, Cooperative Societies, Punjab which was disposed of vide impugned order dated 18.12.1991 (Annexure P-3). A relevant extract of order dated 18.12.1991 reads as under:

“After giving the consideration to the arguments put forth by the learned counsel for Markfed and the petitioner and after carefully going through the relevant record, it has come to surface that the plea of the counsel for the petitioner whereby he says that the party M/s Kewal Bros. is related to the District Manager is not disputed nor his plea that despite recording remarks on the relevant godown rent bills, the District Manager had not made any adjustment or recovery of double payment is also established. Thus the lifting of stocks by the party at their sweetwill especially when the chowkidar posted there had also been removed by the then District Manager, Shri S.K.Goyal, is not disputed and the reasons for not making payments, recovery from the party are best known to the then District Manager, Shri S.K.Goyal. The counsel for the Markfed did not rebut the pleas put forth by the counsel for the petitioner. For these reasons I do not hold the petitioner Shri B.S.Jammu, guilty on this account.

As regards the alleged shortage of 2421.80 quintals of wheat the plea of the petitioner that there was no shortage during his tenure rather he was recording excess and that the alleged shortage

CWP No. 5494-1992

occurred after he had already handed over the charge to Shri Balbir Chand Singla, have also not been contested by the counsel for Markfed. He could not be held guilty of any shortage detected at a subsequent stage. I, therefore, absolve the petitioner Shri Jammu of the charge of double delivery of 950 quintals and shortage of 2421.80 qtls. the rest of the penalty as per the orders of the Managing Director Markfed shall remain unchanged. I order accordingly.”

I have heard learned counsel for the parties and perused the record.

Admittedly, in the impugned order dated 18.12.1991 (Annexure P-3), no reason has been recorded and reference to record has not been made to show as to whether there was shortage in foodgrains or there was violation of rules with regard to distribution or entrustment of foodgrain stocks to various agencies, specifically, M/s Kewal Krishan, relative of its partner was appointed as District Manager at that point of time.

In view of above, the impugned order dated 18.12.1991 (Annexure P-3) is set aside and case is remanded to respondent no.2- Addl. Registrar (Admn.) Cooperative Societies, Punjab (exercising powers of the Registrar, Cooperative Societies, Punjab) with a direction to decide the matter afresh by passing a speaking order after affording opportunity of hearing to the parties.

Parties through their counsel are directed to appear before the Addl. Registrar (Admn.) on 16.02.2015.

CWP No. 5494-1992

Needful shall be done within six months from the date of receipt of certified copy of this order.

Parties will be at liberty to raise all the pleas and will be at liberty to submit written arguments making reference to their respective pleadings.

Disposed of in the aforementioned terms.

27.01.2015

parveen kumar

(Paramjeet Singh)
Judge