

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10167 of 1993

Date of Decision: 04.08.2016

B.C. Arora

... Petitioner

Versus

Haryana Dairy Development Cooperative
Federation Ltd. and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rajan Dadwal, Advocate,
for the petitioner.

Mr. Maneesh Bali, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J.

1. This case stands out as one instance in the hallmarks of injustice. The charge-sheet and the departmental proceedings failed to prove guilt but still the petitioner was punished. The petitioner was charged with dereliction of duty on the material dates when he was not present in the Milk Plant and was on official tour. The six imputations of misconduct against him were not proven in the inquiry. The Inquiry Officer concluded that the petitioner is not guilty of the charges levelled against him but yet on high moral grounds recommended that some minor punishment or warning letter should be enough. The petitioner was held not responsible for failure in the quality control laboratory or to have gauged the deterioration of quality of Double Toned Milk bottled in the plant on August 17, 1983 for supply and distribution to the public. The incident had occurred when the petitioner was on official tour visiting Central Warehousing Corporation in connection with release of Nisin, a food preservative.

2. The Inquiry Officer categorically held that the petitioner should

not be held responsible as he was not even present in the Plant on August 17, 1983 to August 19, 1983 when the milk soured. The punishing authority being the Managing Director of the respondent Corporation without recording a disagreement note proceeded to stop one annual increment without cumulative effect on the petitioner and ordered that he shall not be entitled to any other allowances over and above what has been paid to him during the period of suspension. However, the period of suspension was treated as period spent on duty.

3. The petitioners reply to the charge-sheet was accepted as correct by the Managing Director recording in the impugned order that having been through the inquiry report and the evidence, both oral and documentary, produced at the trial by the respective parties. The Managing Director, like the Inquiry Officer, also stood on high moral ground and thought that the petitioner despite being a senior functionary of the Quality Control Department of the respondent federation did not “really take effective steps” to streamline even the basic pre-requisites of a quality control laboratory. For absence of adequate and proper control, a “major faux pas” was bound to occur and which did occur in the DTM filling on August 17, 1993 and subsequent supply of August 18, 1983, the punishing authority said had resulted in direct loss of money and reputation of the Federation. The charge of misconduct not taking effective steps and want of control and supervision was disputed in the domestic inquiry by the petitioner but yet the punishment was founded on it even without establishing a casual connection between what the petitioner did or omitted to do on August 16, 1993 which led to what the Managing Director

describes as major “faux pas” on August 17, 1993 when the petitioner was admittedly not in town or at work.

4. In absence of legal evidence of slackness in what the petitioner omitted to do in Quality Control Office on August 16, 1993 even the assumption on which the order of punishment is based cannot survive the test of judicial scrutiny while reviewing the impugned order. Both the Inquiry Officer and the Managing Director have fallen in grave error in relying on their mere *ipse dixit* in recommending or awarding minor punishment, which the petitioner did not deserve and therefore the impugned order is not found justified in fact or in law. This is a case of no evidence whatsoever to sustain penalty for no direct fault or misconduct committed by the petitioner as the inquiry report testifies, other than expressing personal views. The petitioner has been made a scapegoat.

5. Consequently, this petition is allowed and the impugned order dated July 22, 1985 (P-5) is quashed as illegal and arbitrary. The petitioner is held entitled to pay and allowances for the period of suspension. The setting aside of the impugned order will result in grant of all consequential other pecuniary and non-pecuniary benefits arising by fiction of law as though the order was never passed. It may be recorded that costs have been paid in Court to the opposite side imposed by interim order.

(RAJIV NARAIN RAINA)
JUDGE

04.08.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No