

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1472-2011 (O&M)
Date of decision: 27.09.2016

O.P. Thakral

.....Petitioner

versus

FCI and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.H.C.Arora, Advocate for the petitioner
Mr.Rajesh Garg, Senior Advocate with
Mr.Sundeep Kumar, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Petitioner has sought the writ of certiorari for quashing the inquiry report dated 21.7.2008 (Annexure P3) and the impugned order of punishment dated 28.8.2008 (Annexure P4), vide which, the punishment of reduction in time scale of pay by three stages with cumulative effect, with immediate effect till retirement was awarded along with recovery of Rs.one lac. Also impugned is the order dated 30.11.2009 (Annexure P7), passed by the appellate authority, vide which, appeal of the petitioner was rejected.

Petitioner had joined service of Food Corporation of India in the year 1972 as Assistant Grade III (Depot) and later on promoted as Assistant Grade I (Depot). On 4.12.2001, the petitioner was compulsorily retired in disciplinary proceeding. However, the appellate authority revoked the order on 24.3.2006. Accordingly, the petitioner again joined as Assistant Grade I (Depot) on 16.5.2006. Petitioner was served with the charge sheet on

8.6.2006, wherein it was alleged that during his posting as Assistant Grade I (Depot) at Jalalabad Center upto 4.12.2001, a shortage of 5762-30-915 (11.8 %) quintals valued at Rs.52,93,776/- was found. The Inquiry Officer vide report dated 21.7.2008 held the petitioner guilty with the result that the impugned punishment order was passed. Appeal against the said order was dismissed.

I have heard learned counsel for the parties and have carefully gone through the file.

Learned counsel for the petitioner has impugned the inquiry report on the ground that for the shortage of wheat stock for the year 2000-2001, some other officials were also charge sheeted along with him. It is stated that the same inquiry officer namely, Dr. T.P.Singh in inquiry against Tek Ram, Assistant Manager Depot exonerated him (Tek Ram) vide report Annexure P8. The perusal of the said report shows that said Tek Ram remained posted there only for five months and he was able to prove that till he left in September 2001, there was no shortage of wheat stock. Petitioner remained posted there till December 2001. In the case of the petitioner, he did not lead evidence to the effect that when he left the charge, the entire wheat stock was intact.

Learned counsel for the petitioner further argued that the shortage was detected in September 2003. Therefore, the petitioner cannot be held liable for the shortage. I am of the view that when the allegations are against the petitioner, the petitioner should have produced the evidence showing that when he left the charge of the said center, wheat stock entrusted to him was intact. But he did not do so. He also did not produce the charge handing over report before the Inquiry Officer. Though he

claimed that some theft was committed by one Dalip Singh but the information received under RTI shows that it was only regarding 278 katta of wheat, whereas in this case, the shortage is of huge quantity. It is established law that this Court cannot substitute its findings with the findings of the inquiry officer unless these are perverse and against the law. On the basis of proper appreciation of evidence, it was found that the charges are proved. There is no illegality or infirmity in the impugned findings of the inquiry officer and the impugned order of the punishment and the order of the appellate authority.

Resultantly, the present petition stands dismissed.

27.09.2016

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No