203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13216 of 2012 (O&M)
Date of decision : July 26, 2016

Mehal Singh .... Petitioner

Versus

State of Punjab and another .... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. C.M. Munjal, Advocate for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not. Yes
3. Whether the judgment should be reported in the digest ? Yes

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KULDIP SINGH J. (ORAL)

Petitioner-Mehal Singh, Assistant Food & Supplies Officer (Retd.), seeks quashing of the order dated 07.07.2010 (Annexure P-8), vide which he was awarded punishment of recovery of ₹8,23,850.33 p. Also challenged is the order dated 27.01.2012 (Annexure P-10) passed by the Financial Commissioner Revenue, Department of Food, Civil Supplies & Consumer Affairs, Punjab- respondent No.1, vide which the appeal of the petitioner was dismissed.

The short facts, required to be noticed for the purpose of disposal of the present writ petition are that the petitioner was posted as Inspector, Grade-I at Moga Centre during the year 1998-99, to be precised from 14.09.1998 to 12.05.1999. He along with some other officials was served with charge-sheet dated 22.09.2004 to the effect that during the stay of the petitioner at Moga Centre, the wheat stocks were not properly stored as per Government instructions, which was rejected by the Food Corporation of India and which was later on sold in an open auction, causing loss of ₹71,19,085/-.

It also comes out that after obtaining the reply, the inquiry was initiated. The Inquiry Officer, accordingly, submitted the report, in which it was held that the charges against the petitioner are not proved. The Punishing Authority vide disagreement note dated 04.10.2007 (Annexure P-7) disagreed with the inquiry report and ultimately passed the impugned order dated 07.07.2010 (Annexure P-8), vide which the abovenoted amount of ₹8,23,850.33 p was ordered to be recovered from him.

The appeal filed before the Financial Commissioner Revenue-respondent No.1 remained unsuccessful.

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

Learned counsel for the petitioner contends that in the inquiry, it was held that the charges are not proved. Therefore, the competent Punishing Authority cannot disagree with the same.

So far as the legal position is concerned, the Punishing Authority can always disagree with the inquiry report and take different view. So far as the inquiry report is concerned, the relevant findings qua the present petitioner are reproduced as under:

> *"In this manner the charges framed against Sh. Mehal Singh AFSO (Retd.) regarding shortage and as per comments of Presiding Officer that he did not took copy*

> *of charge of stocks during 1998-99 at Moga centre and his signatures are not appeared on any documents. Therefore Sh. Mehal Singh official can be held liable for any shortage of wheat stocks weighing 3903-26-00 Qtls and 563-99.784 Qts."*

In this way, it comes out that though the petitioner remained posted at Moga Centre but he did not take charge. However, while he was posted, he supposed to perform his duty and take charge.

The Punishing Authority in the disagreement note dated 04.10.2007 (Annexrure P-7) recorded the following reasons:

> "*MEHAL SINGH, INSPECTOR GR.I now AFSC*
> *Since the question regarding the posting of this official at Moga Centre from 14.09.1998 to 12.05.1999 the official did not take the charge of the stocks is also his negligence. Although, he has not purchased the wheat during his tenure, but the maintenance starts only after the purchase of the stocks, and more over the stocks were not ruined only in a day. During his tenure it was his duty to keep the stock in a perfect manner.*"

I am of the view that once the petitioner is posted at Moga Centre, he was supposed to take charge of the wheat and not taking the charge of the wheat for about 8 months itself shows his negligence which led to damage to the stock and resulted in loss to the Department. The sound reasoning has been given by the Punishing Authority. Therefore, this Court does not find any ground to substitute its findings with the findings of the Punishing Authority. The total loss is to the tune of Rs.71,19,085/-. Accordingly, the punishment of the recovery has been imposed upon the petitioner.

Once, the department has given sound reasoning for disagreeing with the inquiry report and passing the punishment order, this Court does not find any ground to interfere with the findings of Punishing Authority or the appellate authority so as to take a different view.

Accordingly, the present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

July 26, 2016
sarita

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No