

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

**CWP No.19121 of 2016
Date of decision: 16.09.2016**

Tarsem Lal Gautam

..Petitioner

Versus

**Punjab Agro Industries Corporation
Limited and others**

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Padam Kant Dwivedi, Advocate
for the petitioner.

Daya Chaudhary, J.

The prayer in the present writ petition is for issuance of a writ in the nature of certiorari for quashing of impugned charge sheet dated 16.03.2011 issued by respondent No.3 and the action of the respondents in appointing Inquiry Officer without taking into consideration the reply filed by the petitioner to the charge sheet.

The grievance of the petitioner is that a charge sheet dated 16.03.2011 was issued to him for causing alleged financial loss of ₹99,24,962/- to the corporation on account of shortage of wheat for the crop year 2009-10, which was challenged by way of filing CWP No.21468 of 2012. Said petition was dismissed by this Court vide order dated 14.07.2014. Aggrieved by the said order, the petitioner preferred LPA No.1458 of 2014, which was dismissed as withdrawn with the liberty to raise all pleas before the Disciplinary Authority vide order dated 14.10.2014.

liberty granted in LPA No.1458 of 2014, the petitioner filed reply to the charge sheet but without considering the reply filed by him, the Inquiry Officer was appointed and no reason whatsoever was mentioned as to how the reply filed by the petitioner was not found satisfactory. Learned counsel further submits that the action of the respondent-Corporation is violative of principles of natural justice as well as the rules applicable to the case of the petitioner. Learned counsel also submits that a liberty was given by the LPA Bench but still the reply filed by the petitioner was not considered. Learned counsel has also relied upon judgment of Hon'ble the Apex Court in ***Dev Parkash Tewari vs. U.P. Co-operative Institutional Service Board, Lucknow and others, 2014(4) RSJ 39*** as well as judgments of this Court in ***S.S. Julka vs. Punjab State Warehousing Corporation and another, 2015 (4) SCT 344, Satpal Singh Sidhu vs. Punjab State Power Corporation Limited and others, 2016(2) SCT 130*** and ***Baldhir Singh vs. State of Punjab and others, 2008(4) SCT 652*** in support of his contentions.

Heard arguments of learned counsel for the petitioner and have also perused the impugned charge sheet; reply filed by the petitioner; the orders passed in CWP No.21468 of 2012 and LPA No.1458 of 2014 as well as other documents available on the file.

The petitioner was appointed with respondent-Corporation in the year 1978 and was posted on deputation with Punjab Agro Food Grains Corporation Limited (respondent No.2) in the year 1999 where he worked till his retirement i.e., 30.06.2010. The petitioner was charge sheeted vide memo dated 16.03.2011 for causing financial loss of ₹99,24,962/- to the corporation on account of shortage of wheat for the crop year 2009-10 as

shortage was detected during physical verification. The petitioner

approached this Court by way of filing CWP No.21468 of 2012 to challenge the charge sheet dated 16.03.2011, which was dismissed on 14.07.2014. Aggrieved by said decision, the petitioner preferred LPA No.1458 of 2014, which was dismissed as withdrawn with liberty to raise all pleas before the Disciplinary Authority vide order dated 14.10.2014. The relevant portion of said order is reproduced as under: -

“After arguing for some time, and realising that in the reply to the charge sheet, the appellant can raise all the points, including the non-maintainability of the issuance of the charge sheet, before the competent authority, learned counsel prays that the appellant may be permitted to withdraw the aforesaid writ petition as well as the instant appeal with liberty to raise all the pleas, raised in the aforesaid writ petition, before the disciplinary authority.

Dismissed as withdrawn with the aforesaid liberty.”

In terms of order dated 14.10.2014, the petitioner submitted reply taking certain objections subsequent whereupon the Inquiry Officer was appointed. The impugned charge sheet as well as the action in appointing the Inquiry Officer have been challenged in the present writ petition by raising various grounds like, the appointment of Inquiry Officer is contrary to the directions issued by the LPA Bench, the appointment has been made without considering the objections/reply filed by the petitioner

and without recording any finding.

Admittedly, the charge sheet was challenged by the petitioner in CWP No.21468 of 2012, which was dismissed on 14.07.2014. Thereafter, LPA No.1458 of 2014 was filed, which was also dismissed as withdrawn with liberty to raise all pleas before the Disciplinary Authority vide order dated 14.10.2014. The petitioner filed reply to the charge sheet but finding the reply as unsatisfactory, the Inquiry Officer has been appointed. The charge sheet was earlier challenged and now again the same has been challenged in the present writ petition whereas the earlier petition was dismissed on merits. Thereafter, LPA Bench allowed the petitioner to withdraw LPA, which shows that the LPA Bench was not agreeing with the submissions/arguments raised in the LPA and the petitioner was granted liberty to raise all pleas before the Disciplinary Authority.

The judgments relied upon by learned counsel for the petitioner are not applicable to the facts and circumstances of the case as the writ petition challenging the charge sheet has already been dismissed. Subsequently, certain other arguments with regard to challenge of the charge sheet as well as appointment of Inquiry Officer were raised in the present writ petition. In the judgments relied upon by learned counsel for the petitioner, the issue was that the charge sheet was issued after retirement and it was held that departmental proceedings cannot be initiated against a Government employee in respect of incident, which has already taken place. It cannot be said that these arguments were not raised at the time of arguing the earlier writ petition before the Single Bench but subsequently, by raising certain additional arguments, it cannot be said that a separate cause of action has arisen. In case, the Disciplinary Authority is not satisfied with the reply filed by the petitioner, then separate order is required to be passed. The

allegations and reply thereto are disputed facts, which can be verified in the inquiry as after perusing the reply, the Inquiry Officer has been appointed and it can fairly be stated that the Disciplinary Authority is not satisfied with the reply.

Moreover, the petitioner has lost his case before the Single Bench as well as before the LPA Bench and no ground is made out to interfere in the case. The present writ petition being devoid of any merit is hereby dismissed.

16.09.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	✓ Yes/No
Whether Reportable	✓ Yes/No