

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.9936 of 2013 (O&M)
Date of Decision: 27.9.2016

Kanwaljeet Kaur & Others
vs.

.... Petitioners

Punjab State Supply & Marketing Federation Ltd. & Anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Ms. Jagdeep Bains, Advocate for the petitioners
Ms. Puneet Kaur Sekhon, Advocate for the respondents

Kuldip Singh J.(Oral)

Sh.S.S. Cheema, husband of the petitioner No.1 and father of petitioner No.2 and 3 was working as a Field Officer, State Warehouse Moonak, District Sangrur. He was due to retire in the year 2014. However, he suddenly expired on 23.10.2010. Petitioners obtained the legal heir certificate from the Deputy Commissioner. They have been requesting the respondents to release the gratuity and leave encashment which has not been released till date.

In the reply, the respondents No.1 & 2, in para 5 referred to following proceedings:-

Sr No.	Enquiry No.	Nature of enquiry	Amount Recoverable	Status
1	Charge Sheet No. EST/EA-4/97/4093 dated 4.11.1997	Shortage of wheat/bardana	Rs. 55,534/- (50% share) along with interest	Charge sheet decided with the punishment of recovery of 50% loss of Rs.1,11,069/- along with interst vide orders No. EOI/EAI-1/2001/470 dated 23.2.2001. <u>Annex R-1</u> <u>'Colly'.</u>

Sr No.	Enquiry No.	Nature of enquiry	Amount Recoverable	Status
2.	Charge sheet No.EST/EAI/05/3911 dated 5.10.2005	For embezzlement of 49 bags weighing 24.50 quintals valuing Rs.19,718.33 and booking less excess of 253.12 quintals valuing Rs.2,03,718.57/- crop year 2005-06	Rs.1,10,511/- (50% share along with interest)	Charge sheet decided with the punishment of recovery of 50% loss of Rs.2,21,022.41/- along with interest vide orders No. EOI/EAI-1/2010/1650 dated 12.10.2010. <u>Annex R-2.</u>
3	Charge sheet No. EST/EAI-1/05/4701 dated 26.12.2005.	Booking of less excess as per norms fixed relating to wheat crop 2005-06	Rs.2,55,470/- (1/3 rd share). Recovery of Rs. 2,05,000/- has been recovered from Sh. S.S. Cheema. Ex-F.O. And balance amount of Rs.50,470/- stand still recoverable.	Charge sheet decided with the punishment of recovery of 1/3 rd share of loss of Rs.7,66,,410/- vide orders No. EOI/EAI-1/07/319 dated 22.2.2017. <u>Annex R-3 'Colly'.</u>
4	Charge sheet No. EST/EAI-1/2009/1192 dated 8.6.2009.	Shortage in paddy stocks crop 2008-2009 in connivance with Sh. Krishan Lal, Salesman.	Rs.54,63,421/-	Case is under consideration for final orders. <u>Annex R-4.</u>
5	CWP No. 23650 of 2014 filed pursuant to order in Arbitration case filed for recovery of loss.	Shortage of wheat.	Rs.28,22,569/-	Case is pending with Hon'ble High Court. <u>Annex R-5.</u>
6	-	(i) Less excess of wheat crop year 2005-06. (ii) shortage of fertilizer. (iii) less excess of bardana	Rs. 1,02,765/- Rs. 1,66,023/- Rs.1,18,153/-	As per NDC received from DM Markfed, Sangrur vide letter dated 14.8.2013. <u>Annex R-6.</u>

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

At the time of arguments, learned counsel for respondent No.2 has stated that the charge sheet mentioned at serial No.1 and 2 have been settled and that the gratuity is being released shortly. It being so, let the gratuity be released within one month from today along with interest @ 9% per annum starting two months from the date of death of Sh. S.S. Cheema till payment.

Learned counsel for respondent No.2 has further argued that a sum of Rs.50,470/- is recoverable in terms of charge sheet mentioned at serial No.3 and that said amount can be recovered from amount of leave encashment. However for charges mentioned at serial No.4 to 6, no final orders have been passed. The employee has already died. In CWP, there is no stay. It was arbitration matter and without resorting to the departmental proceedings, no recovery can be effected. Hence, ignoring these proceedings, the remaining amount of leave encashment is ordered to be released with the same rate of interest i.e. @ 9% per annum starting two months from the date of death of Sh. S.S. Cheema till payment.

The writ petition is accordingly allowed.

27.09.2016

gk

(Kuldip Singh)

Judge

Whether speaking / reasoned

Yes

Whether reportable

No