

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

LPA No.2347 of 2016 (O&M)

Decided on : 04.04.2019

O.P.Thakral

..... Appellant

Versus

Food Corporation of India and ors.

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. H.C. Arora, Advocate
for the appellant.

Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimrata Shergil, Advocate
for respondent No.1.

Manjari Nehru Kaul, J.

CM-4869-LPA-2016

This is an application for condonation of delay of 23 days in filing the appeal.

After hearing learned counsel for the parties and perusing the application, which is duly supported by an affidavit of the appellant, delay of 23 days in filing the appeal is condoned.

CM stands disposed of.

Main case

Challenge in this intra court appeal filed under Clause X of Letters Patent is to the order dated 27.09.2016 passed by learned Single Judge.

2. Brief facts of the case are that the appellant joined the

respondent – Food Corporation of India (for short 'FCI') as Assistant Grade III (Depot) in the year 1972 and was subsequently promoted to the post of Assistant Grade I (Depot). The appellant was compulsorily retired on 04.12.2001 as a result of disciplinary proceedings, which were subsequently revoked by the Appellate Authority on 24.03.2006. On joining back, the appellant was posted as Assistant Grade I (Depot) on 16.05.2006. On 08.06.2006, a chargesheet was served upon the appellant with the allegations that during his posting as Assistant Grade I (Depot) at Jalalabad Centre a shortage of 5762-30-915 quintals (11.8%) of wheat stock causing a financial loss of ₹52.94 lacs was found. In the inquiry, the Inquiry Officer vide report dated 21.07.2008 held the appellant guilty which led to the passing of the impugned punishment order. It was in this background the appellant approached this Court by way of filing CWP No.1472 of 2011.

3. Learned Single Judge vide order dated 27.09.2016 dismissed the writ petition by observing that the shortage was of huge quantity and the appellant did not produce any evidence in support of his case. The relevant findings are reproduced as under:

“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.”

4. Feeling aggrieved, the appellant filed the present appeal.
5. Learned counsel for the appellant submitted that the learned Single Judge had erred in holding that the appellant could not prove that when he relinquished the charge in December, 2001 the entire stock was intact. He further submitted that at the time of compulsory retirement of the appellant, it was incumbent upon the respondent-FCI to physically verify the stocks to ascertain as to whether or not there was any shortage of stocks on the given date for which the benefit of doubt should be extended to the appellant. Learned counsel for the appellant further drew our attention to the fact that the Inquiry Officer had exonerated Tek Ram Sharma, the Assistant Manager (Depot) vide report dated 10.08.2006 (Annexure P-8) whereas the appellant was held guilty.
6. Per contra, learned counsel for the respondent submitted that the appellant remained posted at the depot in question w.e.f. October 1999 to December, 2001. Learned counsel for the respondent submitted that the appellant while working as Assistant Grade I (Depot) at Jalalabad-III Centre, during the year 2002-03, was not only negligent in his duties but had also failed to maintain absolute integrity which resulted in huge storage losses. Learned counsel for the respondent further submitted that a shortage of 5762-30-915 quintals (11.8%) of wheat stock was detected during the

issuance of stocks. Had there been proper care and upkeep on the part of the appellant of the stocks as per the laid down procedure, the losses would not have occurred. He further submitted that the appellant discharged his duties negligently with malafide intention and contrary to the laid down instructions and thus, failed to preserve and protect the stocks under his charge.

7. We have heard learned counsel for the parties and perused the material available on record.

8. A perusal of the record clearly reflects that the appellant at the time of relinquishing his charge at Jalalabad Centre never produced any evidence to show whether the stocks which had been entrusted to him were intact. He could not even show to the authorities concerned any efforts or steps taken by him to protect the damaged stocks. In the inquiry, the appellant had himself admitted that no indent had been made for providing polythene covers for the stocks. Moreover, there is nothing on record to show that the appellant produced the handing over report to the Inquiry Officer.

9. As a sequel of the discussion made above, we do not find any infirmity in the impugned order passed by learned Single Judge, which would warrant our interference.

10. Accordingly, the present appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

04.04.2019

sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No