

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-9825-2007 (O&M)

Date of decision: 22.02.2017

**B.N.Munjal**

**.....Petitioner**

**versus**

**The Haryana Agro Industries Corporation Limited and others**

**.....Respondents**

**CORAM: Hon'ble Mr.Justice Kuldeep Singh**

Present: Mr.N.D.Achint, Advocate for the petitioner  
Mr.R.K.Hooda, 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?*

**Kuldeep Singh, J. (Oral)**

Petitioner was working as District Manager with Haryana Agro Industries Corporation Limited – (respondent) and remained posted at Tohana for the period from 9.7.1996 to 20.8.1996. During his posting at Tohana, two cheques of Punjab National Bank Bhuna, bearing Nos.527507 and 527508 dated 20.7.1996 amounting to Rs.3,11,500/-, in total, were delivered by M/s Bishnoi Khad Bhandar, Bhuna on 20.7.1996 on account of debt to the Haryana Agro Industries Limited being the price of sale of the bags of NFL Urea. The said cheques were presented to Punjab National Bank Bhuna on 22/23.7.1996 for encashment. According to the respondents, these were dishonoured on 24.7.1996. Petitioner retired from service on 31.10.2002. He was served with a charge sheet (Annexure P2) on 14.2.2003, wherein two charges were levelled against him. First is regarding non issuance of show cause notice and non-filing of criminal proceeding under Section 138 of Negotiable Instruments Act, 1881 after the cheques were

dishonoured and also for not informing about the same to the competent authorities. Second charge was regarding not taking criminal action and not informing the higher authorities regarding non return of 160 bags by said M/s Bishnoi Khad Bhandar, Bhuna in the year 1995-96. After obtaining the reply, an inquiry was got conducted in which charge no.1 was proved and charge no.2 was held to be not proved. Accordingly following order dated 3.3.2004 (Annexure P4) was passed:-

*“In view of the circumstances, I hold that out of the two charges levelled against Shri Munjal, only charge no.1 stands proved against him. Shri Munjal sold the fertilizer worth Rs.3,11,500/- on 20.7.96 to M/s Bishnoi Khad Bhandar, Bhuna and did not take any action against the party to recover the amount till the date of his retirement i.e. 31.10.2002. Due to which the Corporation has also suffered loss of interest @ 12% which comes to Rs.1,75,890/- for the period from 20.7.96 to 31.10.2002. Thus Shri Munjal has caused total loss of Rs.4,87,390/- to the Corporation. Since the Corporation has filed recovery suit in the competent court to recover the amount from M/s Bishnoi Khad Bhandar, Bhuna, I therefore, order to withhold Rs.4,87,390/- from the dues of Shri B.N.Munjal pending with this Corportaion, and if HAI recovers the said amount through recovery suit from the party then the said amount will be refunded to Shri B.N. Munjal Ex-District Manager.”*

Appeal against the said order was dismissed on 21.3.2007 (Annexure P6) by the appellate authority.

Petitioner has now challenged the impugned punishment order dated 3.3.2004 (Annexure P4) and the order of appellate authority dated 21.3.2007 (Annexure P6) and has sought the writ of mandamus for directing the respondents to release Rs.4,87,390/- along with interest which are

withheld by them as the judgment and decree has already been passed against said M/s Bishnoi Khad Bhandar, Bhuna on 30.8.2005 (Annexure P7).

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

The factual position as narrated above, is not disputed with the addition that as per written statement of the respondents, cheques were received back by the respondent Haryana Agro Industries Corporation Limited through registered letter No.795 dated 9.9.1996 on 10.9.1996. It is also not disputed that a civil suit was filed against said M/s Bishnoi Khad Bhandar, Bhuna and the same was decreed by learned Civil Judge (Senior Division), Fatehabad on 30.8.2005 and after the filing of the written statement, appeal against the same has been dismissed on 31.10.2008 by learned Additional Sessions Judge, Fatehabad. In this way, respondent Corporation has obtained the decree against said M/s Bishnoi Khad Bhandar, Bhuna.

The facts as stated above would show that the dishonoured cheques were received by the Haryana Agro Industries Corporation Limited with a letter No.795 dated 9.9.1996, whereas the petitioner was already transferred from Tohana on 20.8.1996. Therefore, it was the duty of his successor to issue the requisite notice under Section 138 of Negotiable Instruments Act, 1881 and intimate the headquarters about the same. It is only after the receipt of intimation from the bank that the respondent Haryana Agro Industries Corporation Limited came to know that the cheques have been dishonoured.

The plea of learned counsel for the respondents that the

petitioner being drawing and disbursing officer was required to keep a watch on the movement of the cheques, is without any force. The cheques were submitted in routine and it was known only after the receipt of intimation letter No.R795 dated 9.9.1996 from the said bank that the cheques have been dishonoured and further criminal/ civil action is required.

Therefore, I am of the view that the charge no.1 against the petitioner is baseless and is required to be quashed along with the findings. Assuming that even if charge no.1 is held to be proved, order was to withhold Rs.4,87,390/- till the same is recovered from M/s Bishnoi Khad Bhandar, Bhuna through a civil suit. Now civil suit filed by the Corporation M/s Bishnoi Khad Bhandar, Bhuna has been decreed and appeal has also been dismissed. In this way, the respondents have obtained a decree against said M/s Bishnoi Khad Bhandar, Bhuna. Now, it is for the respondents to execute the said decree. Therefore, even in terms of the punishment order, the amount cannot be withheld.

It being so, the petition is allowed and the impugned order of punishment dated 3.3.2004 (Annexure P4) alongwith order of appellate authority dated 21.3.2007 (Annexure P6) are hereby quashed. Respondents are ordered to release Rs.4,87,390/- withheld by them along with interest @ 9% per annum starting three months from the date of retirement of the petitioner till the date of payment.

22.02.2017

gk

**(Kuldip Singh)**  
**Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

Yes