

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

**CWP No. 17833 of 2013
Date of Decision: 11.01.2017**

**The Punjab State Cooperative Supply &
Marketing Federation Ltd., Markfed.**

...Petitioner

Versus

**The Additional Registrar (I), Cooperative
Societies, Punjab & Another**

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vikas Singh, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab
for respondent No. 1-State.

Ms. Jagdeep Bains, Advocate
for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed seeking issuance of a writ of certiorari for quashing of order dated 29.11.2011 (***Annexure P-6***) by which the recovery imposed upon respondent No. 2 has been set aside.

In brief, the facts are that respondent No. 2-Netar Singh (since deceased), an employee of the petitioner-Markfed, was served with a chargesheet dated 10.12.2002. As per the allegations against the said respondent, he caused a loss of Rs. 62,739/- on account of not properly looking after the wheat stocks for the year 1998-1999 to 2000-2001. It was alleged that on account of his negligence, the wheat stocks got damaged. An Enquiry Officer was appointed to look into the allegations and vide report dated 27.01.2005, the Enquiry Officer exonerated respondent No. 2 herein of all the charges levelled against him. As the punishing authority i.e. Managing

Director, Markfed did not agree with the enquiry report, a dissenting note was issued holding that Malathene was in excess by 5 litres, A.P. tablets were in excess by 20 Kg. and D.D.V.P. was in excess by 3 litres, and in case fumigation had been done of the stocks, no damage would have been caused. After giving an opportunity of hearing to respondent No. 2, the punishing authority held him to be guilty of allegations levelled against him in the chargesheet and imposed a punishment of recovery of Rs. 62,739/- while ordering stoppage of one annual increment with cumulative effect.

Aggrieved against the order so passed, respondent No. 2 filed an appeal before the Board of Directors. The appeal of respondent No. 2 was dismissed by an order dated 13.10.2010 after giving a personal hearing to him **(Annexure P-5)**.

Aggrieved against the said orders, respondent No. 2 then filed a revision petition before the Additional Registrar (I), Cooperative Societies Punjab, Chandigarh which came to be allowed vide order dated 29.11.2011 **(Annexure P-6)**. Aggrieved against this order, the instant writ petition has been filed by the petitioner-Markfed.

Counsel appearing on behalf of the petitioner argues that the order dated 29.11.2011 is illegal and erroneous and deserves to be set aside. It is argued that physical verification report clearly shows that fumigants were found in excess with respondent No. 2 and had fumigation been done, the wheat stocks would not have deteriorated. It is also argued that respondent No. 2 herein had claimed for the purchase of the said stocks and, thus, revisional authority could not have set aside the order imposing punishment.

Pere contra, counsel appearing on behalf of respondent No. 2 argues that the Enquiry Officer held a detailed enquiry exonerating

respondent No. 2. It is also argued that as per the report of the Enquiry Officer, a categoric finding had been given that as per the circular of Markfed dated 30.01.1980, it was the Technical Officer who was responsible for fumigation and the maintenance of the wheat stocks and not the Field Officer.

I have heard learned counsel for the parties and with their assistance have also gone through the record of the case.

The Additional Registrar, Cooperative Societies, Punjab came to the conclusion after going through the facts of the case as well as report of the Enquiry Officer that the chargesheet was prepared only on the basis of possibility. A reading of the chargesheet itself shows that it did not reveal as to what was the actual loss caused to Markfed. The enquiry report clearly notices that there is nothing on record produced by the prosecution to establish that the delinquent official had failed to properly maintain the wheat stocks in question. Even the appellate authority has not been able to show as to what was the damage done to the wheat stocks. Merely because certain fumigants were found in excess, it could not be concluded that a loss had occurred. The Additional Registrar, Cooperative Societies, Punjab rightly came to the conclusion that the authorities concerned had not appreciated all the facts pertaining to the case and non-proving of charges by the prosecution during enquiry while passing order of punishment.

Therefore, in view of above, this Court finds no infirmity in the impugned order so passed.

Writ petition stands dismissed, accordingly.

January 11, 2017
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No