

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18062-2015 (O & M)

Date of decision: 18.09.2017

Ajay Bhandari

....Petitioner(s)

V/s

State of Punjab and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjiv Gupta, Advocate, for the petitioner.

Mr. Aditya Sharda, AAG, Punjab.

Mr. Anupam Singla, Advocate, for respondent No.2.

Mr. Munish Gupta, Advocate, for respondent No.4.

Rajan Gupta, J. (Oral)

Brief factual background of the case is that an agreement dated 19.10.2005 was executed between M/s Punjab Agro Foodgrains Corporation Limited and M/s Jyoti Rice and General Mills for the purpose of milling of paddy for the year 2005-06. Alongwith the agreement, an affidavit dated 19.10.2005 was submitted wherein the petitioner was shown as a guarantor. As the mill, in question, defaulted in supplying the custom milled rice, recovery proceedings against it were initiated at the behest of respondent No.2. A complaint was also lodged by respondent No.2-Corporation on the basis of allegations that paddy had been misappropriated. Resultantly, FIR No2. Dated 11.01.2007 was registered at Police Station Vigilance Bureau, Phase-I, Mohali and investigation ensued. Petitioner also complained that his affidavit which accompanied the agreement, was forged. Claim of the Corporation for recovery of Rs.2,75,66,305.37/- was accepted by the Arbitrator. Departmental proceedings were also initiated against

respondent No.4 due to misappropriation of huge amount of paddy. On completion of investigation, trial commenced and is stated to be at advanced stage.

Learned State counsel on instructions from ASI Dhir Singh submits that out of 28 witnesses cited by the prosecution, 13 have been examined till now. It appears vide order dated 09.03.2010 passed by the competent authority of the Corporation, respondent No.4 was dismissed from service and recovery was also ordered to be effected from him. It was found that he was milling incharge at the relevant time and paddy was kept with M/s Jyoti Rice and General Mills under his supervision. He was, thus, held guilty by the departmental authority. Respondent No.4 preferred an appeal before the Chairman of the Corporation. Acting as appellate authority, the Chairman set aside the order passed by the disciplinary authority and reinstated the petitioner in service with all consequential benefits and absolved him of his liability of Rs.2,75,66,305.37/-. Petitioner, primarily, contends that the order passed by the appellate authority is non-speaking in nature and needs to be set aside. According to him, petitioner has locus standi to challenge the same as he was unnecessary dragged in the proceedings by forging his affidavit.

Learned counsel appearing for respondent No.4 submits that order has been passed by the appellate authority after due consideration and is sustainable. Stand of the Corporation is that respondent No.4 was dismissed for service by disciplinary authority after a detailed enquiry.

According to him, the order passed by the appellate authority is non-

speaking in nature. According to him, the same Chairman of the Corporation namely Amrik Singh Dhaliwal passed a similarly order in another case at CWP No.18469 of 2014, which was set aside by a co-ordinate Bench.

On due consideration of the matter, this court is of the view that the order passed by the appellate authority is bereft of any reasons. It is evident that the disciplinary authority followed the procedure envisaged by the rules and, thereafter, ordered dismissal of respondent No.4 from service. The perusal of the appellate order shows that it gives no reason for setting aside the said order absolving respondent No.4 all the charges and recovery which was sought to be effected from him. It is also the stand of the petitioner as well as the State that an application had been moved before the trial court for summoning the then Chairman as an accused under Section 319 Cr.P.C. Said application is still pending for the decision. This court does not intend to express any opinion thereon. However, matter needs to be remitted to the appellate authority for a decision afresh. This proposal is not opposed by the Corporation.

Keeping in view the facts and circumstances of the case, impugned order passed by the appellate court is hereby set aside being non-speaking in nature. Matter is remitted to the same authority for a decision afresh as per law.

Allowed in these terms.

September 18, 2017
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No