

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

**CWP-26278-2017 (O&M)
Date of decision:11.12.2017**

Kulwant Singh

... Petitioner

Vs.

Punjab Agro Industries Corporation Ltd. & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Manoj Kumar, Advocate for the petitioner.

Mr. Mayank Mathur, Advocate for the respondents.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Mr. Mayank Mathur, Advocate has put in appearance on behalf of respondents No.1 to 3.

In view of the order that I propose to pass, there would be no requirement of seeking a written response to the writ petition from the respondent/Punjab Agro Industries Corporation Limited (hereinafter to be referred to as 'the Corporation').

With the consent of the counsel for the parties, the writ petition is taken up for final disposal today itself.

The petitioner herein was serving as a Fertilizer Clerk under the respondent/Corporation. Pleadings on record indicate that the departmental proceedings were initiated against the petitioner in terms of issuance of a charge sheet dated 26.11.2015. The precise articles of charge formulated against the petitioner were to the following effect:

“1. He is negligent in performance of his duties as Milling

Incharge for milling of paddy at M/s Mahadev Agro Food, Ajitwal & M/s Mahavir Agro Food, Kokri Kalan, Dharamkot, District Moga.

2. Due to his negligence Corporation has suffered a loss of Rs.15,62,99,155/- on account of 60105.44 qtls of rice undelivered by M/s Mahadev Agro Food, Ajitwal & M/s Mahavir Agro Food Kokri Kalan, District Moga.”

Inquiry Officer was appointed and an inquiry report dated 16.08.2016 was furnished in which findings were returned against the petitioner on both the articles of charge.

A show cause notice was served upon the petitioner contemplating the imposition of a major penalty of termination.

The departmental proceedings culminated in the passing of order dated 09.11.2016 (Annexure P-20) passed by the Managing Director of the respondent/Corporation and whereby the petitioner stands dismissed from service.

Petitioner preferred a statutory appeal dated 06.12.2016 (Annexure P-21). Supplementary/additional grounds of appeal dated 21.12.2016 (Annexure P-22) were also submitted before the Appellate Authority.

The Appellate Authority i.e. Board of Directors of the respondent/Corporation have passed an order dated 29.06.2017 (Annexure P-25) affirming the penalty of dismissal imposed upon the petitioner.

The instant writ petition has been filed assailing the order of penalty dated 09.11.2016 (Annexure P-20) and order dated 29.06.2017 (Annexure P-25) passed by the Appellate Authority.

Having heard counsel for the parties at length, I am of the considered view that the legality of the order of dismissal from service dated

Jagdish Sharan Varshney & others, 2009 (5) SLR 512 and it was observed as under:

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of S.N. Mukherjee vs. Union of India reported in (1990) 4 SCC 594, is that people must have confidence in the SCC 594 judicial or quasi-judicial authorities.

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

No doubt, in S.N. Mukherjee's case (supra), S.N. Mukherjee's case (supra), S.N. Mukherjee's case (supra), it has been observed (vide para 36) that:

“..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.”

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.”

Perusal of the impugned order dated 29.06.2017 passed by the

Appellate Authority would clearly reveal that the submissions/grounds

raised by the petitioner in the appeal as also the supplementary appeal have not even been adverted to much less dealt with. The impugned order passed by the Appellate Authority, as such, cannot sustain.

For the reasons recorded above, the present writ petition is partly allowed and the order dated 29.06.2017 (Annexure P-25) passed by the Appellate Authority is set aside. The matter is remanded back to the Appellate Authority to pass an order afresh after taking into consideration all the submissions/contentions raised by the petitioner in the appeal dated 06.12.2016 (Annexure P-21). Let such final order be passed within a period of three months from the date of receipt of a certified copy of this order.

The instant writ petition is disposed of in the aforesaid terms.

11.12.2017*harjeet***(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No