

HIGH COURT OF CHHATTISGARH, BILASPUR
WPS No.7126 of 2017

Mahendra Kumar Sai S/o Late Budharu Ram Sai, Aged about 42 years, Posted as Area Assistant, Paddy Procurement Centre, Tilda, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Cooperative Societies, Mantralaya, Mahanadi Bhawan, New Raipur, District-Raipur (CG)
2. The Managing Director, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District-Raipur (CG)
3. The Secretary, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District Raipur (CG)

---- Respondents

WPS No.822 of 2018

Sandeep Sirsam S/o Late Chintu Singh Sirsam, Aged About 35 years, Posted as Field Assistant, D.M. Office Dhamtari, District Dhamtari (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Cooperative Societies, Mantralaya, Mahanadi Bhawan, New Raipur, District-Raipur (CG)
2. The Managing Director, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District-Raipur (CG)
3. The Secretary, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District Raipur (CG)

---- Respondents

WPS No.973 of 2018

Santosh Gupta S/o Late Ramsharan Gupta, Aged About 59 years, Posted as Field Assistant, Chhattisgarh Marketing Federation, R/o Shubham Vihar Bilaspur, District Bilaspur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Cooperative Societies, Mantralaya, Mahanadi Bhawan, New Raipur, District-Raipur (CG)
2. The Managing Director, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District-Raipur (CG)
3. The Secretary, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District Raipur (CG)

---- Respondents

And

WPS No.6904 of 2017

H.R.Chandrakar S/o Korbahra Chandrakar, Aged about 60 years, posted as Senior Assistant, Chhattisgarh Marketing Federation, District Gariyaband (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Cooperative Societies, Mantralaya, Mahanadi Bhawan, New Raipur, District-Raipur (CG)
2. The Managing Director, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District-Raipur (CG)
3. The Secretary, Chhattisgarh State Marketing Federation-880, Civil Lines, Head Office, Raipur, District Raipur (CG)

---- Respondents

For Petitioners	:	Mr.V.R.Tiwari, Advocate
For State	:	Mr.D.R.Minz, Dy.G.A.
For Chhattisgarh State Marketing Federation	:	Mr.Prafull Bharat, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/2/2018

1. Since common question of law and fact is involved in these batch of writ petitions, they are heard together and are being disposed of by this common order.
2. The Chhattisgarh State Marketing Federation after full-fledged departmental enquiry inflicted penalty of stoppage of two annual increments with cumulative effect against the petitioners. Against the said orders, appeals before the Managing Director of the said Federation under Regulation 30 of the Chhattisgarh Rajya Vipnan Sangh Sewa Niyam, 2007 were filed. By the impugned orders, orders passed by the disciplinary authority have been affirmed by the appellate authority. Feeling aggrieved against the said orders, these

batch of writ petitions have been filed by the petitioners herein questioning the same as unsustainable and bad in law.

- 3.** Mr.V.R.Tiwari, learned counsel appearing for the petitioners, would submit that the impugned orders passed by the appellate authority are unsustainable and bad in law. They would further submit that number of grounds have been raised by the petitioners in support of their appeals that they are not liable for shortage of paddy as they have already been exempted by the State Government and there is no scientific method for calculating the shortage of paddy and this fact has been admitted by the respondent-Federation in the memo dated 21.11.2017. They would also submit that the appellate authority while passing the impugned orders has not considered any of the grounds raised by the petitioners and simply agreed with the finding of the disciplinary authority. Therefore, the impugned orders are liable to be set aside.
- 4.** On the other hand, Mr.Prafull Bharat, learned counsel appearing for the respondent-Federation, would support the impugned orders and submit that norms as prescribed by the Union of India and the State Government are being followed.
- 5.** I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
- 6.** A careful perusal of the impugned orders would show that number of grounds as stated above have been raised by the petitioners before the appellate authority, which have been

duly recorded in the orders dated 4.10.2017, 9.10.2017, 30.11.2017 and 30.12.2017 respectively by the appellate authority, but none of the grounds have been considered on its own merit and the appellate authority has simply dismissed the appeals.

7. It is correct to say that several grounds were raised by the petitioners to question the order of the disciplinary authority inflicting penalty of stoppage of two annual increments with cumulative effect, but none of the grounds were considered by the appellate authority. In fact, in appeals preferred by the petitioners against order inflicting penalty, the appellate authority was required to consider (a) whether the procedure laid down in these rules have been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of such Constitution of India or in the failure of justice; (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, but it has not been considered and non-speaking and unreasoned order has been passed. The grounds raised by the petitioners in appeals have been duly recorded in the impugned orders, but have not been considered by the appellate authority.

8. In view of above, the impugned orders passed by the appellate authority are hereby set aside. The matters are remitted to the appellate authority to consider each and every ground raised by the petitioners in appeals afresh and thereafter to pass a

reasoned and speaking order in accordance with law after hearing the parties within a period of six months from the date of receipt/production of a copy of this order. The petitioners are at liberty to raise additional grounds, if any, supported by the documents, which shall be considered by the appellate authority. The petitioners are also at liberty to move an application for grant of stay within 7 days from today, which shall be decided by the appellate authority within one month from its receipt and for the period of one month, no recovery shall be made against the petitioners.

9. The writ petitions allowed to the extent indicated herein-above.

No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-