

HIGH COURT OF CHHATTISGARH, BILASPUR
WPS No.399 of 2018

Uttam Kumar Chandra S/o Late Shri Onkar Lal Chandra, aged about 37 years, Presently posted as Area Assistant at Co-operative Marketing Federation Tahsil & District Raigarh (CG) Village Jogidipa, Post Dhansir, Tahsil Bilaigarh, Dist-Baloda Bazar (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, Department of Cooperative Societies, Mantralaya, Mahanadi Bhawan, Naya Raipur, District-Raipur (CG)
2. Managing Director, State Co-operative Marketing Federation 880, Civil Lines, Head Office, Raipur, District-Raipur (CG)
3. Secretary, Chhattisgarh State Marketing Federation 880, Civil Lines, Head Office, Raipur, Raipur (CG)
4. The Manager (Establishment) Chhattisgarh State Marketing Federation 880, Civil Lines, Head Office, Raipur, District Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Anil Tawadkar, Advocate
For State	:	Mr.Arun Sao, Dy.A.G.
For Respondents No.2 to 4	:	Mr.Harshal Chauhan, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

28/02/2018

1. The Chhattisgarh State Marketing Federation after full-fledged departmental enquiry inflicted penalty of stoppage of two annual increments with cumulative effect against the petitioner. Against the said order, appeal before the Managing Director of the said Federation under Regulation 30 of the Chhattisgarh Rajya Vipnan Sangh Sewa Niyam, 2007 was filed. By the impugned order, order passed by the disciplinary authority has been affirmed by the appellate authority. Feeling aggrieved against the said order, this writ petition has been filed by the petitioner herein questioning the same as unsustainable and

bad in law.

- 2.** Mr.Anil Tawadkar, learned counsel appearing for the petitioner, would submit that the impugned order passed by the appellate authority is unsustainable and bad in law. He would further submit that number of grounds have been raised by the petitioner in support of his appeal that he is not liable for shortage of paddy as he has 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. He would also submit that the appellate authority while passing the impugned order has not considered any of the grounds raised by the petitioner and simply agreed with the finding of the disciplinary authority. Therefore, the impugned order is liable to be set aside.
- 3.** On the other hand, Mr.Harshal Chauhan, learned counsel appearing for the respondent-Federation, would support the impugned order and submit that norms as prescribed by the Union of India and the State Government are being followed.
- 4.** 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.
- 5.** A careful perusal of the impugned order would show that number of grounds as stated above have been raised by the petitioner before the appellate authority, which have been duly recorded in the order dated 19.1.2017 by the appellate

authority, but none of the grounds have been considered on its own merit and the appellate authority has simply dismissed the appeal.

6. It is correct to say that several grounds were raised by the petitioner 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 appeal preferred by the petitioner 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 petitioner in appeal have been duly recorded in the impugned order, but have not been considered by the appellate authority.

7. In view of above, the impugned order passed by the appellate authority is hereby set aside. The matter is remitted to the appellate authority to consider each and every ground raised by the petitioner in appeal 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 petitioner is at liberty to raise additional grounds, if any, supported by the documents, which shall be considered by the appellate authority. The petitioner is 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 petitioner.

- 8.** The writ petition is allowed to the extent indicated hereinabove.
No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-