

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

CWP No.14582 of 2018

Date of Decision:-02.07.2018

Satish Kumar.

.....Petitioner.

Versus

The Punjab State Warehousing Corporation & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH.

Present:- Mr. Aditya Grover, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Satish Kumar has filed the present writ petition seeking direction to the respondent-Corporation to allow him to join back in his services with respondent-Corporation as Godown Assistant along with all applicable service benefits, in light of order dated 29.01.2018 passed by Appellate Authority (P-19), whereby a part of order passed by Managing Director-Punishing Authority of respondent-corporation, has been set aside and matter remitted back for working out loss afresh.

Learned Counsel for the petitioner has argued that the order dated 29.01.2018 (P-19) is required to be set aside to the extent whereby responsibility for loss caused to stock has been fixed on petitioner w.e.f. 01.05.2012 i.e. the day of his joining as Godown Assistant till the date of verification i.e. 31.03.2014, without application of judicious mind, as the

joining his duty, had caused damage to the fresh stocks brought to the godown during his tenure as same were kept close to damaged crops and, therefore, fixation of responsibility upon petitioner, has led to grave prejudice being caused to him. Thus, prayer has been made for setting aside the order passed by Appellate Authority-respondent no.2 only to this extent and permitting the petitioner to join back his duty by awarding him all his legally available benefits.

I have heard learned Counsel for the petitioner at length and have also perused the paper book with his able assistance. However, I am of the view that present petition deserves to be dismissed.

In order to appreciate the facts in the right perspective, it would be apposite to reproduce the relevant findings returned by the Appellate Authority which are as under:-

“ 12. *The appellant remained posted on Godown Assistant, Abohar from 28.10.2011 to 01.02.2012 and then from 01.05.2012 to 02.03.2014. After he joined on 01.05.2012 there was inspection of Warehouse on 2nd and 3rd May, 2012 which revealed damage to the stock. This damage cannot be thrust upon the appellant who had held the charge for merely two months from 28.10.2011 to 01.02.2012. In the charge report dated 01.05.2012 in the remarks column number of bags damaged is clearly mentioned apart from general remarks showing damage and rain affected bags. The appellant cannot be held responsible for this damage as well. 80542 bags of 2011-12 were not upgraded by Sh. Charanjit Singh and Sh., Dinesh Chand, but were stacked along with good stock. Had this stock of 80,542 bags been upgraded, loss was to be borne by the above named officials and not by the appellant. Hence appellant cannot be burdened with loss that would occur from the upgradation of these 80542 bags. To be concise, appellant cannot be burdened with any loss which*

occurred till his joining on 31.03.2014 is concerned, the objection of the appellant thereto is not sustainable because physical verification is done on actual basis and the non presence of the appellant at the physical verification does not make much difference. Since appellant remained Incharge of stock for sufficiently long period from 01.05.2012 to 03.03.2004, he cannot escape responsibility for damage and loss of food grain which occurred during this period.

13. *In view of my discussion given in Para '11' and '12' above, I am of the considered opinion that appellant is responsible for damage to stock and consequent loss which took place after his joining on 01.05.2012. The responsibility of damage/loss which occurred before 01.05.2012 lies with the officials, who held charge prior to the appellant but not the appellant. I therefore, partially accept the appeal and set aside the impugned order in so far as amount of recovery only is concerned. The case is remanded back to the Managing Director, Punjab State Warehousing Corporation, who should get the loss worked out afresh in the light of my above observations, issue a fresh show cause notice to the appellant and then pass a speaking order after hearing the appellant. Order was reserved on 04.10.2017 and is being issued today. Be conveyed to all concerned.* ”

A bare perusal of the aforesaid findings returned by Appellate Authority would show that it had rightly absolved the petitioner of any liability from the damage caused to any stock prior to his joining as Godown Assistant on 01.05.2012. However, Appellate Authority had rightly held that the petitioner cannot be permitted to escape any liability for any damage to the stock caused during his tenure as Godown Assistant. It cannot be held from the reading of impugned order **P-19** that it was passed without due application of judicious mind. On the contrary, the order passed by Appellate Authority is perfectly justifiable, as it was the duty of

petitioner, while taking over the duties of Godown Assistant to take note of all the stocks, by checking them and in case there was any damage already caused to any crop, then report the same immediately to superiors. Admittedly, physical verification was done on 31.03.2014 by the concerned Authority, when petitioner was already posted as Godown Assistant for nearly two years. Hence, any damage caused to crop during petitioner's tenure has to be attributed to him and none else.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 02, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>