

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

**CWP No. 22813-2014**

**Date of decision : 10.10.2018**

**Rajeev Kohli**

**...Petitioner**

**versus**

**Chd Ind. & Tourism Dev. Corp & ors.**

**...Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Sanjeev Sharma, Advocate  
for the petitioner.

Mr. Vishal Gupta, Advocate  
for the respondents.

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**RITU BAHRI, J. (Oral)**

In the present writ petition, the petitioner is seeking quashing of order dated 06.08.2014 (Annexure P-9) vide which a de novo inquiry has been ordered against the petitioner.

Brief facts of the case are that petitioner in his capacity as President of the Employees Union submitted a representation dated 14.03.2011 for review of the policy in view of huge pilferage of petrol was found by Internal Auditors. The matter was examined and as per standing guidelines, it was held that annual verification has to be got carried out on the last date of every financial year, as per meeting note (Annexure P-2). The Board of Director on 29.06.1994 in agenda at item No. 88.9 took a conscious decision that in the event of shortage in fuel at petrol station, only operational staff would be responsible and recoveries are to be made from them, by following the norms fixed by Government of India under "The

Motor Spirit and High Speed Diesel (Prevention of Mal Practice in supply and distribution) order, 1990.

The petitioner was posted at Petrol Station Sector 9 as Clerk and was not assigned any supervisory work. As a counter blast to the representation submitted by the petitioner, a surprise physical verification was carried out at CITCO Petrol Station Sector 9 on 10.01.2012 in the middle of the year, as per verification report (Annexure P-4). The petitioner was then charge sheeted vide memo dated 12.09.2012 in respect of shortage of fund of petrol and diesel (Annexure P-5) and petitioner gave his reply dated 20.12.2012 (Annexure P-6). Accordingly, Managing Director of the CITCO ordered holding of an regular enquiry through I.M. Khunger, IAS (Retd.) vide office order dated 10.05.2013 (Annexure P-7). One Ramesh Chander, Jr. Salesman who was part of operational staff at Sector 9, Petrol Pump was also charge sheeted along with petitioner, in the light of decision of Board of Directors dated 29.06.1994. The Enquiry Officer vide enquiry report dated 04.03.2014 (Annexure P-8) found that the petitioner was not responsible for the alleged shortage of petrol/diesel. None of the charge was proved against the petitioner. It has been categorically held that petitioner was only a Clerk and cannot be considered as an operational staff. In this enquiry report, Ramesh Chander, Junior Salesman was found guilty but the Corporation instead of accepting the enquiry report, issued office order dated 06.08.2014 (Annexure P-9) by ordering *de novo* enquiry. Hence the present writ petition.

Learned counsel for the petitioner has argued that the impugned order dated 06.08.2014 (Annexure P-9) is liable to be set aside, as firstly the

impugned order is against the decisions taken by Board of Directors on 29.06.1994 (Annexure P-2) wherein it was held that annual verification of the Petrol Pump has to be got carried out on the last date of every financial year. This decision was taken as there is greater evaporation during summer and lesser in winter months, therefore, it is not possible to account for evaporation in winter months. By taking into consideration this decision, the Enquiry Officer has rightly dropped the charges against the petitioner and hold guilty Ramesh Chander, Junior Salesman, which is also against the decision.

Learned counsel for the petitioner has further referred to a decision taken by Board of Directors at Supplementary Agenda No. 164.2 in 162<sup>nd</sup> meeting held on 16.09.2010 wherein it was noticed that the shortage detected in the case of respondent No. 3 was abnormal. Respondent No. 3 was holding additional charge of all three CITCO Petrol Station and huge shortage was found upon physical verification of Petrol Pump in Sector 56. The Board of Directors decided to make recoveries from the operational staff only and not from the clerical staff vide order dated 01.06.2011 (Annexure P-3).

Learned counsel submits that the physical verification (Annexure P-4) which was later on got carried out in petrol Pump Sector 9, Chandigarh in terms of approved norms on 31.03.2012, no shortage was found in the stocks.

On the other hand, learned counsel appearing for the respondents has argued that the petitioner was overall in-charge of Sector 9 Petrol Pump when the physical verification was conducted. The petitioner

was rightly charge sheeted due to lack of supervision, unfair practice and falsification of stores thereby causing loss/shortage in petrol and diesel.

Pursuant to order dated 18.07.2018, a short affidavit has been filed today by learned counsel for the respondents in the Court today and the same is taken on record. As per this affidavit, it has been submitted that as per the decision of the Board of Directors, the verification report as on 31<sup>st</sup> March of every year has to be accepted by the respondent-Corporation i.e CITCO. The said report has already been accepted by the CITCO which has been made on 31<sup>st</sup> of March of each year.

Heard learned counsel for the parties.

Thus, the above affidavit makes it clear that the CITCO has to accept the report made on 31<sup>st</sup> of March of each year. In the present case as well, the report has been accepted by the CITCO of Sector 9 Petrol Pump of CITCO. Further the petitioner for all intents and purposes was working as Clerk in Sector 9 Petrol Pump of CITCO and the Enquiry Officer has rightly held guilty Ramesh Chander, Junior Salesman, who was operational incharge of Petrol Pump.

In view of the above factual position, order dated 06.08.2014 (Annexure P-9) is quashed. The writ petition stands allowed.

**(RITU BAHRI)**  
**JUDGE**

10.10.2018  
G Arora

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| <b>Whether speaking/reasoned</b> | <b>Yes</b> |
| <b>Whether reportable</b>        | <b>No</b>  |