

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

LPA-2199-2017 (O&M)

Date of decision:- 25.07.2018

The Chairman (Executive Committee), Haryana State Ware
Housing Corporation, Panchkula and others

...Appellants

Versus

Ram Chander Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Lekh Raj Sharma, Advocate,
for the appellants.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under clause X of the Letters Patent is directed against the judgement and order dated 17.08.2016 passed by the learned Single Judge allowing the two writ petitions filed by the petitioner (respondent herein).

2. The facts in brief giving rise to the dispute can be summarized as under:-

CWP-1440-2013 was filed by the petitioner seeking a writ of certiorari to quash an order dated 27.02.2009 passed by appellant No. 2, namely, Managing Director, Haryana State Ware Housing Corporation, Panchkula, imposing a penalty of 10% deduction in gross pension for a period of five years and also an order dated 27.10.2009, whereby the appeal filed by the petitioner was dismissed by the Executive Committee of the Corporation.

Another writ petition being CWP-2885-2013 was also filed with a prayer that suspension period of the petitioner w.e.f. 13.05.2007 to 24.10.2007 be treated as duty period.

The learned Single Judge vide common judgement impugned in this appeal allowed both the writ petitions.

3. Admittedly, disciplinary proceedings were initiated against the petitioner for certain acts of omission and commission which resulted in damage to the food-grain which was stored in open. After conclusion of the disciplinary inquiry on 19.05.2006, in which the alleged charges were found to be proved, on 16.01.2009 after a gap of three years, a show cause notice was issued proposing to impose a penalty of cut in gross pension at the rate of 25% for a period of six years since in the meantime the petitioner on attaining the age of superannuation had retired from service. A reply was submitted by the petitioner, whereupon the order dated 27.02.2009 impugned in the writ petition imposing the penalty of 10% cut in gross pension for a period of five years was passed. Departmental appeal challenging the said order was also dismissed on 28.10.2009 which was also a subject matter of challenge in the writ petition. The learned Single Judge after considering the matter in great depth found that in the absence of any claims made by the depositors with regard to the damaged wheat, the punishment imposed upon the petitioner of 10% cut on his pension was not liable to be sustained. Another fact relied upon by the learned Single Judge in allowing the writ petition was that on the basis of false allegations of supplying damaged wheat a First Information Report was also lodged against the petitioner which culminated into a criminal trial, but he was acquitted from all charges.

4. The punishment imposed in disciplinary proceedings having been set aside by the learned Single Judge, the second writ petition being CWP-2885-2013 in respect of treating the period of suspension on duty was also allowed. From a perusal of the impugned order passed by the learned Single Judge, we find that all the aspects of the matter have been taken into consideration while coming to the conclusion that penalty is not liable to be sustained. It is also to be taken note of that

the petitioner retired from service in 2008 and the show cause notice was issued to him after three years of the inquiry report. During the course of arguments, learned counsel for the appellants has been unable to point out any infirmity or illegality in the impugned order passed by the learned Single Judge. In such view of the matter, we do not find any illegality or infirmity in the impugned order which may require any interference by us in appeal.

5. Apart from above, there is a delay of 219 days in filing the appeal and there is no cogent explanation for this inordinate delay except for mentioning that delay has occurred on account of the fact that the file was moving from one branch to another for opinion and permission to file the appeal. This, in our view, does not constitute a sufficient cause to condone an inordinate delay of 219 days inasmuch as the assertions appear to have been cooked up only for the purpose of explaining the delay and do not inspire any confidence.

6. For all the aforesaid reasons, applications seeking condonation of delay in filing and re-filing the appeal as well as the appeal stand dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

25.07.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No