

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2152 of 2019

1. R.K. Ganjeer, S/o Late B.R. Ganjeer Aged About 63 Years R/o Subhdhra Kunj, Sai Nagar Usla, Ward No. 58, Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Co-Operative Societies, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh
2. Managing Director Chhattisgarh State Marketing Federation, 880, Civil Lines, Raipur, District Raipur Chhattisgarh
3. The Secretary Chhattisgarh State Marketing Federation, 880, Civil Lines, Raipur, District Raipur, Chhattisgarh
4. The Manager (Establishment) Chhattisgarh State Marketing Federation, 880, Civil Lines, Raipur, District Raipur Chhattisgarh
5. District Marketing Officer MARKFED, Rajnandgaon, District Rajnandgaon Chhattisgarh

---Respondents

For Petitioner	:	Mr. Prasoon Agrawal, Advocate.
For State/Respondents	:	Mr. Rajat Agrawal, Advocate for Mr. S.C. Verma.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/05/2019

1. Since common question of law and fact is involved in this writ petition, it is heard and is being disposed off 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 petitioner. 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, this writ petition has been filed by the petitioner herein questioning the same as unsustainable and bad in law.

3. The learned counsel appearing for the petitioner, would submit that the impugned orders passed by the appellate authority are 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 orders has not considered any of the grounds raised by the petitioner 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, 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 here-in-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 petitioner before the appellate authority, which have been duly recorded in the orders dated 27.9.2017, 3.10.2017, 6.10.2017, 9.10.2017 and 12.10.2017 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 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 appeals preferred by the petitioner against order inflicting penalty, the appellate authority was required to consider (a) whether the procedure laid down in case 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 has been

duly recorded in the impugned orders, but has 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 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.
9. The writ petition allowed to the extent indicated here-in-above.

Sd/-
(P. Sam Koshy)
Judge