

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3882-2019

Date of decision : 13.02.2019

Amrit Kaur and another

..... Petitioners

versus

The Punjab State Co-operative Supply &
Marketing Federation Ltd.

..... Respondent

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Shiv Kumar, Advocate for the petitioners.

TEJINDER SINGH DHINDSA, J. (ORAL)

The petitioners who are two in number are stated to be serving on the posts of Senior Assistant and Helper respectively under the Punjab State Cooperative Supply & Marketing Federation Ltd.(Markfed).

Challenge in the instant writ petition is to the chargesheets issued to them carrying even date i.e. 09.01.2018 (Annexures P-4 and P-5) as also the order pursuant to the issuance of chargesheets dated 04.01.2019 (Annexure P-8 colly.) in terms of which an inquiry officer has been appointed .

Perusal of the chargesheet dated 09.01.2018 (Annexure P-4) issued to petitioner No.1 would reveal that she, in the capacity of Senior Assistant in Markfed branch office, Jagraon, was the joint custodian of wheat crop 2011-12 along with Sh.Raj Kumar, Senior Branch

Officer(Retd.). The article of charge formulated against petitioner No.1 in a nutshell is that the stocks of wheat crop 2010-11 were damaged due to non-maintenance of the same during storage and subsequently on account of upgradation of the stocks, replacement of bags above the norms and deduction of carry over charges by the FCI on delivered stocks and sale of damaged wheat stocks through tenders, Markfed suffered a total loss of Rs.2,99,91,891/- for which she along with Raj Kumar, Senior Branch Officer(Retd.) are jointly responsible. The article of charge against petitioner No.2, who was serving on the post of Helper in Markfed branch office, Jagraon at the relevant point of time, is in the same terms as against petitioner No.1 although the quantum of loss indicated is Rs.1,10,32,632/- along with the Senior Branch Officer (Retd.) namely Sh.Raj Kumar.

The precise contention raised by counsel is that recourse to arbitral proceedings has already been taken on the same very article of charge inasmuch as an arbitration reference under Section 55/56 of the Punjab Cooperative Societies Act, 1961 for recovery of Rs. 4,10,24,523/- (Rupees Four Crores Ten Lakhs Twenty Four Thousands Five Hundred and Twenty Three) along with interest already stands initiated against the petitioners as also Raj Kumar, Senior Branch Officer(Retd.). It is vehemently contended that if the petitioners are made to face the departmental proceedings initiated vide impugned chargesheets it would amount to double jeopardy.

In the considered view of this Court the contention raised by counsel is not well founded.

Undoubtedly the precise article of charge against both the petitioners is of having caused a certain loss along with the Senior Branch

Officer on account of damage caused to the stock of wheat crop for a particular season. The arbitral proceedings initiated essentially are towards quantifying the total loss, fixing of responsibility in relation thereto and thereafter to apportion the loss so determined amongst the delinquent officials.

This Court is of the view that the scope of departmental inquiry initiated vide impugned chargesheets would, however, cover a separate aspect. The impugned chargesheets have been issued under the Punjab State Cooperative Supply & Marketing Federation Employees(Punishment & Appeal) Rules, 1990. Counsel does not controvert that minor as also major penalties are defined under the Punishment and Appeal Rules and even the procedure for imposition of the same is contained under the Rules. In other words any of the penalties envisaged under the Punishment and Appeal Rules can possibly be imposed (if at all) upon the petitioners herein only after satisfying the procedure stipulated under the Rules. The arbitral proceedings which also stand initiated against the petitioners can culminate possibly only upon imposition of recovery which otherwise is classified as a minor penalty under the 1990 Rules. The impugned chargesheets have, however, been issued under Rule 6-B read with Rule 10 of the 1990 Rules. Counsel very fairly apprises the Court that the afore-noticed rules are only in relation to imposition of a major penalty. Imposition of a major penalty concededly cannot fall under the purview of arbitral proceedings.

Under such circumstances no infirmity is found in the conduct of parallel proceedings i.e. arbitral proceedings as also departmental proceedings contemplating the imposition of major penalty upon the petitioners. It would not be a case of double jeopardy.

No merit.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

February 13, 2019
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No