

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

Sr. No.468

**CWP-9469-1997
DECIDED ON: 16.09.2019**

SOHAN SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner herein *inter alia* seeks issuance of a writ in the nature of *certiorari* to quash an appellate order dated 08.04.1994 (Annexure P-2) as well as revisional order dated 04.10.1996 (Annexure P-5), whereby an Award dated 21.10.1991 rendered by Arbitrator in arbitration proceedings initiated by respondent-Markfed was set aside.

2. The award was given in favour of the petitioner. Arbitration proceedings were initiated by respondent-Markfed under Section 55 of Punjab Cooperative Societies Act, 1961.

3. Simultaneously, departmental proceedings were commenced against the petitioner by issuing a chargesheet on the same set of allegations as contained in the arbitration proceedings i.e. the petitioner had caused financial loss of Rs.57,011.50 to the respondent-Markfed owing to weight loss of 62.65 Kgs. unserviceable polythene covers at the time of handing over of charge to Sh. Surjit Singh, F.A., Zira Branch.

CWP-9469-1997

4. Subsequently, a regular departmental enquiry was conducted and the enquiry officer exonerated the petitioner of all the charges in the enquiry proceedings. The said enquiry report was accepted by Sh. Ramesh Inder Singh, IAS, the then Managing Director of Markfed and vide an order dated 02.09.1992 dropped the departmental proceedings against the petitioner.

5. While admitting the writ petition, the operation of the appellate as well as revisional order was stayed by this Court.

6. Adverting to merits of case, it is borne out from record that on 16.10.1987 the District Committee got the charge delivered of un-serviceable polythene covers to the petitioner and two other persons namely Surjit Singh, F.A. And Gian Chand, F.A. by counting the number of covers and not by weight. In the stock registers the entries of these polythene covers are made as total number of covers, number of new covers, number of serviceable covers and number of un-serviceable covers and weight of these covers are not mentioned in the books.

7. Markfed has alleged that the weight of the covers is less but there is no dispute with regard to the number of covers. When the charge of these covers was given to the petitioner by counting of number of covers then how he is responsible for the weight of the covers.

8. During the departmental enquiry prosecution witnesses namely Sh. Surjit Singh, F.A., Zira and Sh. Bahadur Singh Assistant Technical Officer, Ferozepur admitted in their statements that the District Committee got delivered the charge of Polythene covers by counting of number of covers and not by weight. The statements made by Sh. Surjit Singh F.A.

CWP-9469-1997

and Sh. Bahadur Singh Asstt. Technical Officer are contained at Annexure P/6 & P/7, respectively. Shri Surjit Singh, F.A. made it clear in the departmental enquiry that the petitioner had taken charge of these covers from the committee by counting the same and they were not weighed. Shri Surjit Singh further admitted that the letter No.3041 dated 27.11.1987 regarding old unserviceable covers was never received in the Zira Branch or from the District Manager, Ferozepur.

9. It thus emerges that the Committee at the time of taking over the charge by the petitioner and two others on 16.10.1987, merely counted covers and did not weight the same. No copy of the letter No.3041 dated 27.11.1987 laying down norms for weighing of unserviceable covers was ever sent to Zira Branch Office. Nor did the Head Office or the District Officer, Ferozepur sent any letter to their branches. Since no such letter was sent to Zira Branch as such those norms could not be applied at the relevant time.

10. In view of aforesaid, I am of the view that there is no infirmity in the Award dated 21.10.1991 (Annexure P-1) and consequently the appellate order dated 08.04.1994 (Annexure P-2) and the revisional order dated 04.10.1996 (Annexure P-5), are set aside with all necessary consequences.

11. No order as to costs.

12. Writ petition is allowed.

16.09.2019

Ankur

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No