

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

CWP No. 26967 of 2014

Date of Decision : 22.05.2019

Tilok Kumar

...Petitioner

Versus

**The Punjab State Cooperative Supply and Marketing Federation
Limited and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jatin Salwan, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Sumit Jain, Advocate for respondent No. 2.

Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the challenge is to the order dated 09.12.2014 (Annexure P-7) whereby the respondents decided to resume the enquiry into the charge-sheet, which was issued to the petitioner on 20.06.2008 (Annexure P-2).

The facts as mentioned in the writ petition are that the petitioner, while working as a Field Officer with the respondent-Punjab State cooperative Supply and Marketing Federation Limited (herein after referred to as 'Markfed'), an FIR No. 71, dated 31.07.2007, under Section 7 of Essential Commodities Act and Sections 19 and 23 of Fertilizer Control Act read with Section 420 and 120-B IPC was registered at Police Station Banur, District Patiala. The allegations against the petitioner was that

criminal breach of trust was committed by the petitioner in respect of 500 fertilizer bags entrusted to him, which were misappropriated thereby causing loss to the Markfed. On the same allegations, on which the FIR was registered, a charge-sheet was issued to the petitioner on 20.06.2008 (Annexure P-2). As the respondents had initiated departmental as well as criminal proceedings against the petitioner in respect of the same incident, petitioner moved an application before the Managing Director of the Markfed to keep the departmental proceedings in abeyance till the criminal proceedings in respect of the FIR No. 71, dated 31.07.2007 are completed. The said request of the petitioner was accepted and the departmental proceedings were ordered to be stayed by the Managing Director vide order dated 18.06.2009.

In respect of FIR No. 71, dated 31.07.2007, petitioner was acquitted by the competent Court of Law vide order dated 17.05.2014 (Annexure P-4) by giving him the benefit of doubt. The said order has already attained finality.

After the acquittal of the petitioner, respondents passed an order dated 09.12.2014 (Annexure P-7) resuming the disciplinary proceedings, which were kept in abeyance on 22.06.2009. The said order is under challenge by the petitioner before this Court.

Upon notice of motion, reply has been filed by the respondents and in the reply, stand taken by the respondents is that the disciplinary proceedings were already pending against the petitioner, which were kept in abeyance vide order dated 22.06.2009 and after the criminal proceedings were over, the same have been resumed to be taken to the logical end.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Though, in the present writ petition, challenge is to the resumption of the disciplinary proceedings, which were kept in abeyance on 22.06.2009, on the ground that once the petitioner has already been acquitted of the criminal charge with regard to the same incident, respondents cannot proceed with the departmental enquiry any further. But at the time of arguments, learned counsel for the petitioner, keeping in view the instructions received from the petitioner, who himself is present in the Court, states that petitioner will be satisfied, at this stage, in case a direction is given to the respondents to finalize the enquiry in a time bound manner.

Learned counsel for the respondents states that there is an interim order, which has been passed by this Court, wherein, the enquiry proceedings were stayed and it was only due to the said fact, no enquiry has been conducted against the petitioner after resuming the disciplinary proceedings vide order dated 09.12.2014 (Annexure P-7). Learned counsel for the respondents states that keeping in view the prayer made by learned counsel for the petitioner, proceedings in respect to the charge-sheet dated 20.06.2008 will be finalized within a period of four months from the receipt of copy of this order. He only prays that let the petitioner cooperate with the enquiry proceedings.

Learned counsel for the petitioner undertakes that petitioner will cooperate in all respects to finalize the enquiry proceedings within the time frame as suggested by learned counsel for the respondents.

In view of the above, present writ petition is disposed of with a

direction to the respondents to finalize the enquiry proceedings in respect of the charge-sheet dated 20.06.2008 within a period of four months from the receipt of certified copy of this order.

Learned counsel for the petitioner states that the pensionary benefits of the petitioner have been withheld due to the pendency of the said charge-sheet and, therefore, the same should be released by the respondents forthwith.

Once the disciplinary proceedings pending against the petitioner have been ordered to be finalized within a period of four months, respondents will take appropriate decision keeping in view the finding of the enquiry proceedings against the petitioner in respect of the release of the pensionary benefits. Whatever the pensionary benefits for which the petitioner is found entitled, after the finalization of the departmental proceedings, the same will be released to the petitioner within a period of six weeks thereafter.

Writ petition stands disposed of in above terms.

May 22, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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