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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9564 of 2000
Date of decision: 22.01.2020

Sardul Singh and others

.....Petitioners

V/s.

The Food Corporation of India and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Ms. Maninder, Advocate for
Mr. R.K. Chopra, Advocate,
for the petitioners.

Mr. K.K. Gupta, Advocate,
for the respondents.

Sanjay Kumar, J. (Oral)

The petitioners served as Assistants Grade-III (Depot) in the service of the Food Corporation of India. They filed this writ petition aggrieved by the penalty visited upon them, viz., reduction in pay to the minimum of the time scale for a period of three years with a further direction that during the penalty period, they would not earn any increments and after expiry of the penalty period, they would start from the reduced scale.

The prayer in the writ petition discloses that the ground on which the petitioners challenged the aforestated penalty was that the Corporation has acted in an arbitrary and discriminatory manner, inasmuch as persons against whom the very same charge-sheet dated 07.01.1992

(Annexure P-2) was served had been exonerated. It was their case that they had been made scapegoats at the behest of others who were similarly situated. They sought a further direction to grant them the consequential benefits to which they were entitled after setting aside the penalty imposed upon them.

No interim order was granted in this writ petition and it is stated that all the petitioners retired from the service of the Corporation after attaining the age of superannuation.

Perusal of the record reflects that, aggrieved by the initial penalty of reduction in pay to the minimum of the time scale for a period of five years with a further stipulation that during the intervening period of penalty, they would not earn any increment and after the expiry of the penalty period, they would start from the regular scale, the petitioners preferred appeals before the Appellate Authority, viz., the Zonal Manager (North), of the Corporation and the same were rejected in the year 1994.

Aggrieved thereby, the petitioners filed review petitions before the Managing Director of the Corporation and in exercise of such power, the Managing Director reduced the penalty imposed upon the petitioners by restricting it to a period of three years. Significantly, in the review application filed by them, the petitioners never raised the issue of discrimination, now cited in this writ petition as a ground of challenge. Having failed to raise this aspect at the relevant stage before the Appellate or the Reviewing Authorities, the petitioners cannot be permitted to make out a fresh case before this Court. In exercise of writ jurisdiction, this Court cannot decide as to whether those identically situated were let off with

lesser punishments or were exonerated. Such an exercise would entail comparison of the cases of the petitioners with those of the others to ascertain the varying degrees of guilt and this Court cannot undertake the same under Article 226 of the Constitution. This Court would only review the decision making process and would not sit in appeal over the decision while exercising writ jurisdiction and therefore, when the petitioners failed to raise the issue before the competent authorities and invite an adjudication thereupon, this Court cannot permit them to raise this new challenge for the very first time in this writ petition.

The writ petition is therefore devoid of merit and is accordingly dismissed.

No order as to costs.

22.01.2020

rakesh

(SANJAY KUMAR)
JUDGE

whether speaking/non speaking	:	<i>Yes/no</i>
<i>whether reportable/non reportable</i>	:	<i>Yes/no</i>