

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

**CWP-5126-2021(O&M)
Date of Decision:10.03.2021**

Anoop Gachli

..... Petitioner

versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Parveen Chauhan, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner is serving on the post of District Manager under the Haryana Agro Industries Corporation Limited.

Challenge in the instant petition is to the order dated 16.11.2020 (Annexure P-7) passed by the Managing Director of the Corporation in terms of which petitioner has been issued a warning and penalty of recovery of loss amounting to Rs.30, 65, 914/- with interest has been imposed.

Perusal of the impugned order would reveal that the penalty has been imposed upon culmination of the departmental proceedings that were initiated against the petitioner under Rule 7 of the Haryana Civil Services (Punishment & Appeal) Rules, 2016.

During the course of arguments it stands conceded that

petitioner has availed of a statutory remedy of appeal before the Board of Directors of the Corporation vide appeal dated 18.12.2020 (Annexure P-8) and which is still pending consideration. In the appeal petitioner has raised a prayer for stay of recovery proceedings.

Counsel has been heard.

This Court is of the view that since a statutory appeal against the order of penalty is pending consideration, the validity of the impugned order dated 16.11.2020 (Annexure P-7) ought not to be gone into by this Court at this stage. Be that as it may, a submission raised by counsel which would warrant consideration is that even though the appeal is pending but the Corporation has already commenced recovery proceedings inasmuch as a sum of Rs. 33,000/- approximately is being deducted from his monthly salary w.e.f. January, 2021.

Prima facie such course of action would be unfair and unjust.

Notice of motion.

At this stage Mr.Padamkant Dwivedi, Advocate joins proceedings and accepts notice on behalf of contesting respondents No.2 and 3.

Complete copy of the petition already stands furnished to him.

Mr.Dwivedi submits that he is not opposed to any direction issued by this Court for an expeditious disposal of the appeal.

In view of the facts and circumstances of the case and in the light of the stand taken by counsel representing the Corporation, the instant writ petition is disposed of with a direction to the Appellate Authority to take up the appeal dated 18.12.2020 (Annexure P-8) for expeditious disposal

on merits and to pass a final order thereupon in accordance with law. The appeal be decided in any case within a period of three months from the date of receipt of a certified copy of this order.

At this stage a submission advanced by Mr. Dwivedi would require notice that the petitioner in the capacity of District Manager is himself responsible for preparing the agenda and for placing the matter before the Board of Directors i.e. the Appellate Authority. If that be so, petitioner is obligated to prepare the agenda and place the same before the Board of Directors forthwith.

Since a statutory appeal dated 18.12.2020 (Annexure P-8) has been filed against the order of penalty and the same is still pending consideration, as an interim measure it is directed that further recovery from the petitioner shall remain stayed and further course of action would be dependent on the outcome of the final order that may be passed by the Appellate Authority.

Writ petition is disposed of.

It is clarified that this Court has not examined the case on merits and the Appellate Authority would not be influenced by virtue of the interim directions that have been issued.

(TEJINDER SINGH DHINDSA)
JUDGE

10.03. 2021
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No