

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16147-2020(O&M)

Date of decision: 20.04.2021

Jaswinder Singh

.....Petitioner

Versus

Punjab State Warehousing Corporation and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Jagdeep Bains and
Mr. Tahaf Bains, Advocates, for the petitioner

Mr. Athar Ahmed, Advocate for the respondents

ANIL KSHETARPAL, J. (ORAL)

The petitioner prays for a writ in the nature of Certiorari to quash the order dated 21.09.2020 while refusing to refund an amount of Rs.4,78,118/-.

Certain facts are required to be noticed. The petitioner was issued a charge-sheet on 14.06.2004 for mis-appropriation of the wheat stock. The inquiry officer submitted a report against the petitioner and consequently, the disciplinary authority vide order dated 23.11.2005 punished the petitioner with stoppage of one annual grade increment with cumulative effect alongwith recovery of loss of Rs.13,77,743.55. The petitioner filed an appeal against the order passed by the disciplinary authority, which was also dismissed on 13.02.2018. However, a review petition was filed and the appellate authority set aside the order of recovery of Rs.13,77,743.55 while remanding the matter back to the punishing authority to conduct fresh inquiry.

However, the order of punishment regarding stoppage of one annual grade increment with cumulative effect was retained.

The petitioner filed CWP-8122-2020 challenging the order passed by the appellate authority in the review application retaining the order of stoppage of one annual grade increment. On 18.06.2020, the writ petition was partly allowed with the following observations:-

“Keeping in view the aforesaid facts, the order passed by appellate authority, while exercising powers of review, dated 09.01.2019 is set aside with regard to upholding the order of punishing authority regarding stoppage of one annual grade increment. Since fresh enquiry officer has already been appointed vide order dated 18.05.2020, therefore, the enquiry officer would enquire into all the charges afresh.

With respect to second prayer, it may be noted that the petitioner claims that an amount of Rs.4,78,118/- has already been recovered from the petitioner pursuant to the order of punishing authority dated 23.11.2010. In this regard, it is noticed that the petitioner has submitted a representation dated 12.03.2020 to the Managing Director of the Corporation, who is directed to decide the representation in accordance with law within a period of 3 months.”

The respondents have now passed an order refusing to refund the amount of Rs.4,78,118/- which has been recovered pursuant to the order passed by the disciplinary authority on 23.11.2005. It is not in dispute that the aforesaid order passed by the disciplinary authority has already been set aside by the appellate authority in the review application. Thus, as on today, there is no order against the petitioner for recovery of the amount.

Learned counsel representing the respondents does not dispute that the departmental inquiry has been entrusted to Sh.R.C.Nayyar, IAS (Retired) but the matter is pending. The petitioner

is in service. In these circumstances, the amount of Rs.4,78,118/- cannot be illegally retained by the respondents on the ground that an inquiry is pending. As noticed above, the departmental proceedings have remained pending against the petitioner for the last 17 years.

Keeping in view the aforesaid facts, the order passed by the Managing Director refusing to refund the amount is set aside. The respondents are directed to refund the amount subject to the final outcome of the disciplinary proceedings.

Disposed of.

20.04.2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No