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

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CWP No.20737 of 2022
Date of Decision: 13.09.2022

Raghunath Garg

...Petitioner

Versus

The Punjab State Coop. Supply & Marketing Fed. Ltd. (Markfed)

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Shiv Kumar, Advocate, for the petitioner.

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Vikas Suri, J. (Oral)

In this petition under Article 226 of the Constitution of India, the grievance averred by the petitioner is that during his service career, a deposit of Rs.2,29,524/- had been made by him on account of pendency of departmental proceedings in which he had been implicated and even after being exonerated in the said proceedings, the said amount is not being returned. The said amount is liable to be forthwith refunded along with interest thereon.

The facts in brief are that the petitioner had joined the establishment of the Punjab State Cooperative Supply & Marketing Federation Limited (MARKFED) on 14.09.1980 as Field Assistant and rendered a continuous service of more than 35 years and after attaining the age of superannuation, retired on 31.05.2016 as Senior Branch Officer.

It is averred that a few days prior to his retirement, departmental proceedings were initiated imputing the charges that the petitioner was responsible for a loss of Rs.4,59,048/-, on account of deduction by the FCI towards moisture cut on supply of wheat.

Learned counsel would submit that two chargesheets were served upon the petitioner and in the departmental enquiry as per the report of the enquiry officer, which was submitted way back in the year 2017, the charges levelled against the petitioner could not be proved.

Thereafter, the petitioner submitted a representation dated 10.06.2016 (Annexure P-4) with a request that he had deposited the amount referred to in the chargesheet that he had deposited the amount and on account of the same, the retiral dues be released.

It is submitted that the retiral dues were released thereafter, except for the amount that had been deposited by the petitioner, pertaining to both the chargesheets dated 23.05.2016 and 26.05.2016, totalling to Rs.2,83,382/-.

The competent authority finally accepted the findings of the enquiry officer and exonerated the petitioner vide order dated 11.01.2022 (Annexure P-5), by holding that the employees were not responsible for the recovery of loss and the case needs to be taken up with the FCI for the same.

Learned counsel would submit that with regard to the chargesheet in which he has been exonerated, the deposit was to the tune of Rs.2,29,524/-. The said amount is required to be refunded along with interest but is not being done.

It is urged that except for the aforesaid two chargesheets, no other departmental proceedings were pending against the petitioner and there is no legal impediment as such in releasing the aforesaid amount, particularly that pertaining to the proceedings in which the petitioner has been exonerated.

Much stress has been laid on the specific finding recorded by the competent authority, whereby it has ordered that the charges levelled against the petitioner and the other delinquent officials, be withdrawn and the same reads as under:-

> "I have gone through the charges levelled upon all the Cos and the report of inquiry officer wherein he has held that employees are not responsible for recovery of loss and case needs to be taken up with the FCI for recovery of loss with a specific reference to dispute on record of quality certificate. CM(FG) has also held that Markfed employees are not responsible for any complaint received from destination at the later stage. In view of this I am inclined to agree with the contention of the Cos as well as the findings of inquiry officer and order that charges levelled against them may be withdrawn. CM(FG) is also directed to take up the matter with FCI for settlement of the issue as per the accepted policy between FCI and Markfed."

Learned counsel would submit that the petitioner has before approaching this Court served a justice demand notice dated 20.01.2022 (Annexure P-6), followed by the reminder dated 16.07.2022 (Annexure P-7), to the second respondent, which is still pending consideration with the authorities.

Learned counsel, on instructions from the petitioner submits that the petitioner would be satisfied, at this stage, in case the demand notice dated 20.01.2022 (Annexure P-6) is decided in accordance with law, by passing a speaking order in a time bound manner.

Without going into the merits of the case or the claim being made by the petitioner in the present petition or in the demand notice, respondent No.2 is directed to consider and decide the claim made in the demand notice dated 20.01.2022 (Annexure P-6) and reminder dated 16.07.2022 (Annexure P-7) in accordance with law, by passing a speaking order within a period of six weeks from the date of receipt of certified copy of this order.

The competent authority would also examine and decide the issue of the interest payable for delayed payment in accordance with law settled by the Full Bench judgment rendered in ***A.S. Randhawa vs. State of Punjab and others,*** **1997 (3) SCT 468 (F.B.)** and by a coordinate Bench in ***J.S. Cheema vs. State of Haryana and others,*** **2014 (13) RCR (Civil) 355.**

Needless to observe that in case, after the decision, petitioner is found entitled for any benefits, the same be released to him within a period of four weeks thereafter, as per law.

The petition stands disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 13, 2022
vcgarg

Whether speaking/reasoned	Yes
Whether reportable	No