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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18469-2023(O&M)
Date of Decision:23.08.2023

MUNISH KUMAR GUPTA AND OTHERS

.....Petitioners

V/s.

**PUNJAB STATE GRAINS PROCUREMENT CORPORATION LTD.
AND OTHERS**

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Arihant Goyal, Advocate,
for the petitioners.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioners by way of this Writ Petition have assailed the order dated 01.11.2022 (Annexure P-11) passed by respondent No.4 and order dated 17.01.2022 (Annexure P-7) passed by respondent No.3 whereby an amount of ₹71593.95 paisa has been ordered to be recovered from the petitioners for realization of the less excess on stored wheat in the year 2017-18 which has been upheld by the appellate authority.

2. Learned counsel for the petitioners submits that the authorities have failed to take into consideration that the wheat was stored and delivered to the concerned authority on 07.01.2019. Therefore, the excess calculated for the period 2017-18, could have been so noticed as actually the wheat was lifted out on 07.01.2019. The calculations for the period 2017-18 could not have been done and the amount of excess as calculated by the respondents is, therefore, erroneous and the recovery amount is wrongful.

3. Learned counsel for the petitioners submits that the petitioners had submitted a detailed representation and reply to the charges leveled against them, but the same were not considered by the authorities and

thereafter, they also preferred an Appeal, but the appellate authority has also failed to take note of the same. The recovery order is ought to be quashed and set aside as no pecuniary loss is caused to the Government.

4. I have considered the submissions of learned counsel for the petitioners.

5. The petitioners were served with a show cause notice and the following charge was framed:-

Sr. No.	Name of the Godown	Total storage capacity	Less excess given	Value of the less excess
1.	Rajesh Bansal & Sons covered	26995.00.000 quintal	0.45.500 quintal	₹1,077-00
2.	P.L. Covered	57979.64 quintal	127.62.500 quintal	₹3,13,187-00
3.	Jyoti Covered Godown	27346.00 quintal	65.50.500 quintal	₹1,60,747-00
4.	Maninder Covered Godown	27121.00 quintal	0.93.000 quintal	₹2,282-00
			194.51.500 quintal	₹4,77,293-00

6. Reply to the show cause notice has also been submitted by the petitioners that as per the instructions dated 16.04.1999, excess of wheat is to be given as 700 grams per quintal when stored in the open area and 1000 grams per quintal for covered area. The said norm was made applicable only when the wheat is stored for the first year. However, since the wheat had been stored for more than one year, learned counsel for the petitioners submits that since the wheat was stored for more than one year and was delivered in the subsequent years on 07.01.2019, the imposition of penalty by making assessment of value of the less excess (quantity) is wrongful and unjustified and the charge sheet is without basis.

7. This Court finds that the contentions raised by the petitioners in the present Writ Petition are not part of the objections raised by the petitioners in reply to the show cause notice. In fact it is admitted by the petitioners that they had given excess (rate) per quintal more than what was leveled in the allegations.

8. The disciplinary authority has considered the factual aspects at length and reached to the conclusion that the charge of giving less excess to the concerned parties was made out. The appellate authority has also reappraised the facts as stated by the petitioners and reached to the similar conclusion. Only recovery orders had been issued. Opportunity of personal hearing was also awarded to the petitioners, but the same was not availed by them.

9. The scope of interfering in the departmental proceedings is very limited. The Supreme Court in the case of Union of India and others Vs. P. Gunasekaran; 2015(2) SCC 61 held as follows:-

“13. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under [Article 226/227](#) of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;*
- b. the enquiry is held according to the procedure prescribed in that behalf;*
- c. there is violation of the principles of natural justice in conducting the proceedings;*

- d. *the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e. *the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f. *the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g. *the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- h. *the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- i. *the finding of fact is based on no evidence.*

Under [Article 226/227](#) of the Constitution of India, the High Court shall not:

- (i) *re-appreciate the evidence;*
- (ii) *interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) *go into the adequacy of the evidence;*
- (iv) *go into the reliability of the evidence;*
- (v). *interfere, if there be some legal evidence on which findings can be based.*
- (vi) *correct the error of fact however grave it may appear to be;*
- (vii) *go into the proportionality of punishment unless it shocks its conscience.”*

10. The aforesaid view has been reiterated by three Judges’ bench in the case of **Central Industrial Security Force and Others** VS. **Abrar Ali**; 2017 (4) SCC 507.

11. In view of the above, this Court does not find any reason to substitute its own opinion with that of arrived at by the disciplinary authority or by the appellate authority. It is only the decision making process which can be examined in judicial review and not the actual decision.

12. The Writ petition, therefore, fails and is dismissed accordingly.

August 23, 2023

**[SANJEEV PRAKASH SHARMA]
JUDGE**

Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>