

CWP-16252-2023

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2023:PHHC:097297

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16252-2023

Date of decision: 31.07.2023

Jarmal Singh and another

.....Petitioners

V/s

The Reviewing Authority and others

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Tahaf Bains, Advocate
for the petitioners.

DEEPAK MANCHANDA J. (ORAL)

The instant petition has been filed under Article 226/227 of the Constitution of India for issuance of writ, order or direction in the nature of mandamus, directing the respondent-Corporation not to effect recovery from the salaries of the petitioners pending the decision of the prayer for stay made in the review petition dated 26.07.2023 (Annexure P-5) filed against orders dated 11.04.2023/21.07.2023 (Annexures P-3 and P-4) passed by respondent No.2, whereby the punishment order dated 15.09.2022/25.11.2022 (Annexure P-1) passed by respondent No.3 has been upheld.

Learned counsel for the petitioners submits that the wheat stocks for the crop year 2012-13 was procured in the month of April, 2012 and most of the stock was stored on katcha/unscientific plinth at the District Ferozepur, where the petitioners were posted. He submits that the wheat stocks was dispatched in the 2nd and 3rd years also and the last date of dispatch was May, 2014 and there is no

norms for demand of storage gain for the 2nd year and 3rd year of storage and

assured gain has been demanded from the petitioners without taking into account the driage and moisture loss which naturally occurs owing to the climatic condition and further as per the Food Corporation of India, there exists no norms for demand of assure gain/storage gain is to be delivered @1% for covered storage 0.7% for open storage for the dispatch of the stock for the period of 2nd year and 3rd year. Learned counsel submits that petitioners were issued a charge sheet containing allegations with regard to delivery of less excess on the delivery of the wheat crop for the year 2012-2013, to which the petitioners submitted their reply. He again submits that vide order dated 25.09.2018 passed by the Head Office, Sh. C.L. Bains, IAS (retired) was appointed as an Enquiry Officer to enquire into the allegations levelled in the charge sheet, who submitted his enquiry report vide letter dated 28.03.2019 and proved the charges against the petitioners and further, the petitioners submitted their comments with regard to the enquiry report on 02.08.2021 and 03.08.2021 respectively. He further contends that the petitioners received a notice of personal hearing to appear before the Managing Director of the Corporation on 15.09.2022 and submitted their written submissions raising detailed contentions as well as relied upon the pendency of the matter with regard to gain/storage loss in foodgrains. Learned counsel further submits that without considering the aforesaid submissions, the Managing Director of the Corporation proceeded to pass an order imposing a punishment of recovery upon the petitioners vide order dated 15.09.2022/25.11.2022 (Annexure P-1). Thereafter, petitioners preferred a statutory appeal before the respondent No.2 along with an application for stay during the pendency of the appeal on 19.12.2022 and the same is pending for adjudication.

Mr. Manbir Singh Batth, Advocate has put in appearance on behalf of respondents and filed his *memo of appearance*, and concedes that the review petition has been filed and the same would be decided within a period of six months.

I have heard learned counsel for the parties and have gone through the record of the case.

In view of the aforesaid stand of the counsel for the respondents, the present petition is disposed of with directions to the Reviewing Authority (respondent No.1) to consider and decide the Review Petition (Annexure P-5) in accordance with law within a period of six months from the date of receipt of certified copy of this order. Further recovery from the petitioners shall remain stayed and would be subject to the final order that may be passed by the Appellate Authority.

The petition stands disposed of.

31.07.2023
Sapna

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No