

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

CWP-24201-2018

Date of decision : 02.03.2023

Sudesh Kumar

..... Petitioner

versus

**The Punjab State Cooperative Supply and Marketing Federation Limited and
another**

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Ms. Ananya Ahluwalia, Advocate for
Mr. Sumit Jain, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

Present writ petition has been filed impugning order dated 09.07.2013 (P-2) and that dated 27.07.2018 (P-7).

2. Petitioner was working as Helper in the Godown of Markfed was served with chargesheet dated 09.07.2013. As per the charge levelled against the petitioner, he alongwith Senior Branch Officer namely Raj Kumar (retired) were responsible for loss to the tune of 47.29 qtls. of paddy amounting to Rs.1,31,413/-. On the same set of allegations, Arbitration proceedings under Section 55-56 of Punjab Cooperative Societies Act, 1961 (in short '1961 Act') were also initiated. The arbitration proceedings initiated by Markfed however failed. Appeal filed against the award passed by the Arbitrator under Section 68 of the 1961 Act was also dismissed on the ground of delay. Revision too met the same fate. Even writ petition filed at the behest of the Markfed was dismissed on the ground of delay

only. Thereafter, the impugned order dated 27.07.2018 was passed whereby the proceedings initiated against the petitioner vide chargesheet dated 09.07.2013 were ordered to continue.

3. Mr. Shiv Kumar appearing for the petitioner has emphatically argued that since the arbitration proceedings initiated against the petitioner have failed and the said award stands upheld upto this Court in CWP No.29163 of 2017 decided on 20.12.2017 (P-6). The revival of the disciplinary proceedings against the petitioner cannot be sustained.

4. Per contra, Ms. Ahluwalia appearing for the respondent-Markfed submits that there is no error in revival of the proceedings against the petitioner for the reason the arbitration failed owing to technical reasons and not on merits.

5. I have heard counsel for the parties and have gone through the records of the case.

6. In the considered opinion of this Court, the plea raised at the behest of the petitioner is misconceived and cannot be sustained for more than one reason. A perusal of the award passed in arbitration would show that one of the reasons that wayed the Arbitrator was there not being a proper authorization to initiate the arbitration proceedings. Further remedies their against could not succeed for want of delay. At the same time, this Court does not find favour with the plea raised by counsel for the petitioner that the arbitration proceedings initiated for effecting recovery can have an effect on the right of the employer to proceed against an employee for misconduct and other departmental regulations. Apart from that even the fact that Raj Kumar (since retired) could not be proceeded against in view of absence of any such regulations enabling the employer to proceed against the retired employee cannot be taken as a ground to exonerate the petitioner as well.

7. Resultantly, the present petition is dismissed.

(PANKAJ JAIN)
JUDGE

02.03.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No