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

**CWP-17834-2023
DECIDED ON: 18.08.2023**

GURDEEP KUMAR**...PETITIONER****VERSUS**

**THE HARYANA STATE COOPERATIVE SUPPLY
AND MARKETING FEDERATION LIMITED AND OTHERS**

...RESPONDENTS**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Ms. Ritu Punj, Advocate,
Mr. Sahaj Punj, Advocate, and
Ms. Navdeep Kaur, Advocate,
for the petitioner.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in nature of certiorari for quashing the inquiry report dated 24.01.2023 whereby the charges of gross negligence on the part of the petitioner being the custodian of the stock were held to be proved. The petitioner has further sought quashing of the order dated 09.10.2020 whereby the Respondent-Haryana State Co-operative Supply and Marketing Federation Limited ('HAFED') had appointed the Chief Vigilance Officer as the Inquiry Officer to conduct the regular departmental inquiry into the charges levelled against certain officials including the petitioner.

2. Learned counsel for the petitioner contends that the action taken by HAFED is in contravention of the law laid by the Apex Court in *Capt. M.*

Paul Anthony Vs. Bharat Gold Mines Ltd. [1999 (2) SCT 660] and in

Indian Overseas Bank Vs. P. Ganesan &Ors. [2008(1) SCT 37] as also against the interim order dated 23.05.2023 (Annexure P-24) passed by this Court in another writ petition preferred by the petitioner bearing CWP No. 8458 of 2023 (O&M) titled ***Gurdeep Kumar Vs. Haryana State Cooperative Supply and Marketing Federation Limited &Ors.*** which is pending adjudication.

3. It is further submitted that the petitioner was working as Store Keeper with the respondents from last many years and on physical verification of stock conducted on 24.07.2015 and during the period from 19.11.2015 to 28.11.2015, a shortage of 4178 bags was found, on the basis of which an FIR No. 179 dated 6.11.2015 was logged against number of persons including the petitioner wherein challan was filed on 13.06.2017.

4. Counsel for the petitioner vehemently argues that he had informed the senior officers regarding damage of the wheat bags and further requested the contractor to send the labour for shifting of the wheat stock, but the contractor refused to send the labour on account of his non-clearance of the bills. He further stated that vide order dated 20.3.2018 an inquiry officer was appointed by HAFED and departmental inquiry was initiated, however, the said inquiry was stayed in view of the statement made by the petitioner whereby he has relied upon the judgments passed by the Apex Court to state that once the criminal case is pending, the departmental inquiry is required to be stayed however, on 09.10.2020, the Chief Vigilance Officer was appointed as inquiry officer to conduct inquiry into the charges levelled against the petitioner and other personnel, as a result of which, the inquiry report dated 24.01.2023

(Annexure P11) was submitted holding the petitioner accountable for the alleged loss.

5. Insofar as the quashing of the order dated 09.10.2020 (Annexure P-9) is being sought by the petitioner, this Court is of the strong view that any question with respect to the legality of order dated 09.10.2020 cannot be adjudicated at such a belated stage being hopelessly time-barred. Insofar as the inquiry report dated 24.01.2023 is concerned, it is well-settled that the disciplinary proceedings cannot be stalled till the conclusion of the criminal proceedings and there is no legal bar to the conduct of the disciplinary proceedings and criminal trial simultaneously. In fact, the judgments relied upon by the petitioner itself hold that no straitjacket formula is available as to in which case, the departmental proceedings are to be stayed.

6. In *Capt. M. Paul Anthony's* case (supra) the Apex Court has held that "if the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest. As such, no benefit can be granted to the petitioner".

7. This Court has also been apprised that under similar circumstances, another charge sheet was issued against the petitioner and he has approached this Court seeking quashing of the said charge sheet and appointment of the inquiry officer whereby the inquiry proceedings were stayed by this Court vide interim order dated 25.05.2023 (Annexure P-24). However, this Court is of the opinion that since the FIR therein had

culminated from a separate set of facts wherein the petitioner was acquitted by the Judicial Magistrate, 1st Class vide judgment dated 31.05.2023 (Annexure P-25), as such, no comparison can be drawn. Thus, the reliance of the interim order dated 25.05.2023 is also misplaced.

8. In view of the above, no infirmity can be found in the action of the respondents and as such there is no merit in the present writ petition.

9. Dismissed.

18.08.2023

V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No