

CWP-19160-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19160-2023

Date of Decision:31.08.2023

Pawan Kumar and others

... Petitioners

V/s.

*The Appellate Authority, Punjab State Civil Supplies Corp. Limited and
Another*

... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

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

DEEPAK MANCHANDA, J.(Oral)

Through the instant petition Article 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondent corporation not to effect recovery from the petitioners pending the decision of the application for stay made in the appeal dated 19.08.2023 (Annexure P-2) filed by the petitioners against orders dated 27.07.2023/28.07.2023 (Annexure P-1) passed by the respondent no.2, pending before respondent no.1 in spite of the fact that the petitioners have been extremely vigilant in protecting the interest of the

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Corporation and no allegation was sustainable against the petitioners yet without conducting any proper enquiry and based on no evidence the order (Annexure P-1) has been passed which is in absence of any statutory regulations with regard to storage gain in wheat stocks especially when this Hon'ble Court is already seized of the matter in a bunch of writ petitions connected alongwith CWP No. 27725 of 2013 and the next date of hearing is fixed for 06.10.2023 and policies and instructions which have been passed by the Corporation and the recovery alongwith punishment has wrongly been imposed upon the petitioners in violation of the settled law and the petitioner has been made a scapegoat. The petitioner has also prayed for issuance of order or direction to respondent no.1 to decide the application for stay made alongwith the appeal dated 19.08.2023 (Annexure P-2) filed by the petitioners against order dated 27.07.2023/28.07.2023 (Annexure P-1) passed by respondent no.2 being wholly wrong, incorrect and not recoverable from the petitioners. Further, the petitioners have prayed that recovery from them may kindly be stayed during the pendency of the writ petition.

Learned counsel for the petitioners contends that the petitioners were appointed as Inspector Gr. I and Inspector Gr. II in the PUNSUP Ferozepur. The wheat crop for the year 2018-19 was procured and most of the stock was stored on unscientific plinth at Faridkot, where the petitioners were posted. He submits that the last date of dispatch was 23.11.2019 and 15.02.2020 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

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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 notice, to which the petitioners appeared before the Managing Director and submitted their submissions raising detailed contentions as well as relied upon the pendency of the matter with regard to storage gain/storage loss in foodgrains in a bunch of writ petitions in CWP-27725-2013 as well as the interim stay granted in the same. But the same were not considered by the Managing Director of the Corporation and without any application of mind, in a cryptic manner, the Managing Director proceeded to pass an order imposing a punishment of recovery upon the petitioners vide orders dated 27.07.2023 and 28.07.2023 respectively (Annexure P-1). Thereafter, petitioners preferred a statutory appeal dated 19.08.2023 (Annexure P-2) before respondent No.2 and the same is pending for adjudication.

Notice of motion.

At this stage, on the asking of the Court, Mr. M.S. Batth, Advocate has put in appearance on behalf of respondents by filing his memo of appearance and concedes that the statutory appeal has been filed and the same would be decided within a period of eight months.

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

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In view of the aforesaid stand of the counsel for the respondents, the present petition is disposed of with the directions that the statutory appeal dated 19.08.2023 (Annexure P-2) filed by the petitioner, which is pending adjudication before the Appellate Authority (Respondent No. 1) shall be decided within a period of six months by passing a speaking order from the date of receipt of certified copy of this order and till then, no recovery from the salary of the petitioners shall be effected.

(DEEPAK MANCHANDA)
JUDGE

31.08.2023

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Whether speaking/reasoned	Yes
Whether Reportable	Yes /No