

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

259

CWP-17617-2016
Date of decision : 29.02.2024

B.K. ChadhaPetitioner

V/S

Punjab State Warehousing Corporation and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. R. Kartikeya, Advocate with
Ms. Ridhi Bansal, Advocate for the petitioner.

Mr. Sumit Jain, Advocate for the respondents.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India impugning the charge-sheet dated 19.10.2012 (Annexure P-1); inquiry report dated 10.02.2014 (Annexure P-3) to the extent it holds the petitioner guilty of charge No.1 and 2 and partially holds him guilty of charge No.4 and 5; show cause notice dated 06.03.2014 and dissenting note (Annexure P-4 colly); order dated 05.08.2014 (Annexure P-7), whereby the petitioner has been dismissed from service and recovery of Rs.7,17,86,538/- has been imposed upon him and the order dated 17.11.2015 (Annexure P-12) passed by the Appellate Authority, whereby the appeal filed by the petitioner against the order of punishment dated 05.08.2014, has been dismissed.

2. The brief facts of the case, as have been pleaded in the present petition, are that the petitioner was working as Technical

Assistant (TA) with Punjab State Warehousing Corporation at its State Warehouse, Baghapurana. He was issued charge-sheet dated 19.10.2012 (Annexure P-1), which was inquired upon by the inquiry officer vide his inquiry report dated 10.02.2014 (Annexure P-3), whereby charges No.1 and 2 were proved and charges No.4 and 5 were partly proved and charge No.3 was not proved against the petitioner. Thereafter a dissenting note dated 06.03.2014 (Annexure P-4) qua charge No.3 was issued to the petitioner with tentative opinion to dismiss him from the service and thereafter, vide order dated 05.08.2014 (Annexure P-7), the petitioner was dismissed from service and recovery of Rs.7,17,86,538/- was imposed upon him. The appeal preferred by the petitioner was rejected by the Appellate Authority vide order dated 17.11.2015. Hence this petition.

3. During the course of hearing, learned counsel for the petitioner submits that the same allegations were also inquired into by the police and the police examined the complaint submitted by the respondent-corporation and found the allegations to be incorrect vide report dated 22.10.2013 (Annexure P-21) and even the vigilance has also probed the matter and found the allegations to be incorrect vide its report (Annexure P-23). He further submits that a civil suit dated 31.05.2016 was filed by the respondent-Corporation against the petitioner for recovery of Rs.7,17,86,538/-, however, the same has also been dismissed by the Court of learned Additional Civil Judge (Senior Division), Baghapurana vide judgment and decree dated 17.09.2022 (Annexure P-41). He submits that even the recovery imposed upon the

petitioner relates to the period from February 2002 to February 2007, whereas, the petitioner joined the warehouse on 19.03.2007 and remained posted there till 27.09.2012 and the deductions made by the F.C.I. do not relate to the period of the petitioner's service which is clear from RTI information dated 21.12.2012 (Annexure P-25) and the whole action has been taken out to the vindictive and inimical approach of the then Managing Director of the Corporation against the petitioner. He further submits that during the pendency of the present petition, another complaint filed by the respondent-Corporation against the petitioner under Sections 407, 409, 418 and 420 of IPC, Police Station Baghapurana has been dismissed by the Court of learned Sub Divisional Judicial Magistrate, Baghapurana vide judgment dated 03.12.2018. He further submits that in view of the subsequent events which have taken place after the impugned order dated 17.11.2015 passed by the Appellate Authority, his case is required to be reconsidered by the Appellate Authority and at this stage, he would be satisfied if his case is remanded back to the Appellate Authority for reconsideration.

4. Learned counsel for the respondent could not dispute the abovesaid factual aspect and submits that in view of the subsequent events, the Appellate Authority shall reconsider the case of the petitioner.

5. I have heard learned counsel for the parties and gone through the relevant record with their assistance.

6. In view of the subsequent events, which have taken place after the impugned order dated 17.11.2015 passed by the Appellate

Authority dismissing the appeal filed by the petitioner, the instant writ petition is partly allowed and impugned order dated 17.11.2015 passed by respondent No.2-Appellate Authority is hereby set aside and the matter is remanded back to respondent No.2-Appellate Authority to reconsider and decide the case of the petitioner on merits, in view of the subsequent developments, within a period of three months from the date of receipt of certified copy of this order.

29.02.2024
kothiyal

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No