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

**CWP-33626-2024
Date of Decision: 13.12.2024**

Dharmender Kumar

..... Petitioner

Versus

The Haryana State Co-operative Supply & Marketing Federation Limited
and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Mansi, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction especially a writ in the nature of *mandamus* directing respondent No.2-Appellate Authority to decide the statutory appeal dated 13.09.2024 (Annexure P-4) filed by the petitioner against the punishment order dated 29.08.2024 (Annexure P-3) in a time bound manner with a further prayer to direct the respondent to not effect the recovery from the salary of the petitioner pursuant to issuance of order (Annexure P-3) till the decision of statutory appeal dated 13.09.2024 by the Appellate Authority i.e. respondent No.2.

2. Learned counsel for the petitioner submitted that the petitioner was inflicted with the punishment order dated 29.08.2024 vide Annexure P-3 in which the punishing authority imposed a punishment of stoppage of two annual increments with cumulative effect. Thereafter, the petitioner filed an

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appeal before the Board of Administrator/MD, HAFED on 13.09.2024 vide Annexure P-4. However, the aforesaid appeal has not been decided by the aforesaid Appellate Authority till date and the primary prayer made in the present petition is for directing respondent No.2 i.e. Appellate Authority to decide the statutory appeal against the punishment order and not to effect the recovery. She further submitted that a Co-ordinate Bench of this Court by passing the orders vide Annexures P-5 & P-6 had directed the Appellate Authority to decide the appeal within a time bound manner and therefore, in the present case as well, a direction may be issued to the Appellate Authority to decide the appeal within a reasonable time and also till the time the appeal is decided, no recovery may be effected from the petitioner.

3. I have heard the learned counsels for the petitioner.

4. The grievance of the petitioner in the present case is that the punishment order was passed against the petitioner vide Annexure P-3 on 29.08.2024 and against the aforesaid punishment order, the petitioner filed an appeal before the Board of Administrator/MD, HAFED on 13.09.2024 vide Annexure P-4. The present petition has been filed on 25.11.2024 which is a date mentioned on the petition itself. The present petition has been filed after about little more than 2 months of the filing of the appeal with a prayer that the appeal has not been considered by the Appellate Authority and therefore, a direction be issued. A perusal of the contents of the writ petition would show that it is absolutely vague and unclear as to whether the aforesaid appeal which was filed on the aforesaid date i.e. on 13.09.2024 has actually been registered with the Appellate Authority or not and what is the next date fixed by the Appellate Authority. There is no averment in the



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petition to state that the Appellate Authority has assembled and is not holding the Court in this regard. Even otherwise also, the period of 2 months after filing of the appeal cannot be said to be reasonable time so as to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. This Court is of the *prima facie* view that the present petition is a premature petition.

5. Learned counsel for the petitioner referred to Annexures P-5 and P-6 and contended that similar kinds of orders were passed by the other Co-ordinate Benches of this Court. Both the aforesaid orders (Annexures P-5 & P-6) have been perused by this Court. Annexure P-5 would show that in that case the order of punishment was passed on 03.11.2021 and the appeal was filed on 08.12.2021 and 25.11.2022 and the aforesaid order was passed by a Co-ordinate Bench of this Court on 14.12.2022, which was almost after one year and therefore, there was some reasonable time after filing of the appeal in the aforesaid case, whereas in the present case, just after 2 months the present petition has been filed to invoke the extraordinary jurisdiction of this Court and therefore, reference made to Annexure P-5 is totally misconceived. So far as Annexure P-6 which is an order passed by another Co-ordinate Bench of this Court is concerned, the same pertain to the allegations of less shortage gain wherein there was a less moisture and that was the reason for inflicting the order of punishment. So far as the allegation and the punishment order in the present case is concerned, it is clear that the punishment order has been passed on the basis of theft of 5514.07 quintals and an FIR was also lodged against the petitioner and therefore, it cannot be said that when the punishment order is passed on the allegation of theft of a



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large quantity then within a period of two months the Appellate Authority should have decided the appeal.

6. In view of the aforesaid facts and circumstances, the present petition being premature at this stage is hereby dismissed.

13.12.2024

(JASGURPREET SINGH PURI)
JUDGE

Bhumika

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |