

(2018) 03 CHH CK 0120
In the Chhattisgarh High Court
Case No : WPS No. 2074 of 2018

KRISHNA PRATAP SINGH THAKUR

APPELLANT

Vs

STATE OF CHHATTISGARH,

RESPONDENT

Date of Decision : 06-03-2018

Acts Referred:

Citation : (2018) 03 CHH CK 0120

Hon'ble Judges : MANINDRA MOHAN SHRIVASTAVA

Bench : Single Bench

Advocate : V. K. Saxena, Majid Ali, Akash Pandey

Final Decision : Allowed

Judgement

1. The Chhattisgarh State Marketing Federation after full-fledged departmental enquiry inflicted penalty of stoppage of two annual increments with cumulative effect against the petitioner. Against the said order, appeal before the Managing Director of the said Federation under Regulation 30 of the Chhattisgarh Rajya Vipnan Sangh Sewa Niyam, 2007 was filed. By the impugned order, order passed by the disciplinary authority has been affirmed by the appellate authority. Feeling aggrieved against the said order, this writ petition has been filed by the petitioner herein questioning the same as unsustainable and bad in law.

2. Mr.V.K.Saxena, learned counsel appearing for the petitioner, would submit that the impugned order passed by the appellate authority is unsustainable and bad in law. He would further submit that number of grounds have been raised by the petitioner in support of his appeal that he is not liable for shortage of paddy as he has already been exempted by the State Government and there is no scientific method for calculating the shortage

of paddy and this fact has been admitted by the respondent-Federation in the memo dated 21.11.2017. He would also submit that the appellate

authority while passing the impugned order has not considered any of the grounds raised by the petitioner and simply agreed with the finding of the

disciplinary authority. Therefore, the impugned order is liable to be set aside.

3. On the other hand, learned counsel appearing for the respondent-Federation, would support the impugned order and submit that norms as prescribed

by the Union of India and the State Government are being followed.

4. I have heard learned counsel submissions made herein-above and circumspection. for the parties and considered their rival also gone through the records with utmost

5. A careful perusal of the impugned order would show that number of grounds as stated above have been raised by the petitioner before the appellate

authority, which have been duly recorded in the order dated 3.10.2017 by the appellate authority, but none of the grounds have been considered on its

own merit and the appellate authority has simply dismissed the appeals by following observation:-

â??vihy esa vihykFkhZ }kjk izLrqr vH;kosnu esa izLrqr rF;ksa ,oa lfpo }kjk ikfjr n.Mkns'k dk voyksdu fd;k x;kA vihyk/khu ikfjr vkns'k esa vkosnd

}kjk /kku esa vk;h lw[kr ds laca/k esa izLrqr rdkS ij fopkjksaijkar ik;k x;k fd lfpo }kjk ikfjr n.Mkns'k esa vihykFkhZ }kjk /kku esa vk;h deh ds

dkj.kksa ij fopkj dj o""kZ 2013&14 essa ftys esa vk;h vkSlr deh 2-43 izfr'kr dks vk/kkj cukdj mlls vf/kd /kku dh deh dh ek=k dk olwyh vkns'k fd;k x;k

gSA Tkks ;qfDr;qDr ,oa U;k; laxr gS bl laca/k esa vihykFkhZ }kjk ,slk dksbZ rdZ ,oa izek.kd izLrqr ugh fd;k x;k gSA ftlls fd lfpo }kjk ikfjr n.Mkns'k ls

vlger gqvk tk ldsAâ??â??â??

6. It is correct to say that several grounds were raised by the petitioner to question the order of the disciplinary authority inflicting penalty of stoppage

of two annual increments with cumulative effect, but none of the grounds were considered by the appellate authority. In fact, in appeal preferred by

the petitioner against order inflicting penalty, the appellate authority was required to consider (a) whether the procedure laid down in these rules have

been complied with and if not, whether such non- compliance has resulted in the violation of any provisions of such Constitution of India or in the

failure of justice; (b) whether the findings of the disciplinary authority are

warranted by the evidence on the record; and (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, but it has not been considered and non-speaking and unreasoned order has been passed.

The grounds raised by the petitioner in appeal have been duly recorded in the impugned order, but have not been considered by the appellate authority.

7. In view of above, the impugned order passed by the appellate authority is hereby set aside. The matter is remitted to the appellate authority to

consider each and every ground raised by the petitioner in appeal afresh and thereafter to pass a reasoned and speaking order in accordance with law

after hearing the parties within a period of six months from the date of receipt/production of a copy of this order. The petitioner is at liberty to raise

additional grounds, if any, supported by the documents, which shall be considered by the appellate authority. The petitioner is also at liberty to move an

application for grant of stay within 7 days from today, which shall be decided by the appellate authority within one month from its receipt and for the

period of one month, no recovery shall be made against the petitioner.

8. The writ petition is allowed to the extent indicated hereinabove. No cost(s)