

(2006) 09 DEL CK 0060

In the Delhi High Court

Case No : Writ Petition (C) No. 6938 of 2001

Prem Singh

APPELLANT

Vs

The Cooperative Stores Ltd.

RESPONDENT

Date of Decision : 06-09-2006

Acts Referred:

Citation : (2006) 09 DEL CK 0060

Hon'ble Judges : Manju Goel, J

Bench : Single Bench

Advocate : K.C. Mittal and Amrit Singh, for the Appellant; Dinesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Manju Goel, J.—The petitioner is challenging the order of his dismissal dated 17.3.2001 passed by the Chairman of Cooperative Stores Limited, known as Super Bazar, Connaught Place, New Delhi. The petitioner had been working with the Super Bazar w.e.f. 24.5.1986 and at the relevant time was posted in the Cash Section to Special Mobile Van No. DHL 8150. On 17.2.1994 a stock checking was carried out and thereafter the petitioner was served with a charge memo dated 25.11.1994 alleging therein shortage of stock to the tune of Rs. 45,652.75 and the shortage was attributed to the petitioner and Mr. Pat Ram, Helper. An inquiry thereafter was instituted. The finding of the Inquiry Officer was against the petitioner. The penalty of dismissal and recovery of Rs. 23,111.48 was inflicted on the petitioner. The grounds for challenge listed by the petitioner are that the finding of the Inquiry Officer was contrary to law and material facts and evidence, that the respondent Management did not take into account the relevant records and communication sent by the petitioner and that the principles of natural justice had been violated. The petitioner is also challenging the punishment as being contrary to law. The respondent has filed a counter affidavit refuting all the allegations of the petitioner. It is alleged, inter alia, that the petitioner being in charge of the Mobile Van was responsible for the shortage.

The respondent denies that the principles of natural justice were violated during the inquiry. So far as the order of termination is concerned, the same is also supported. It is further contended by the respondent that an order of winding up of Super Bazar has been passed and a Liquidator has been appointed. The Liquidator was subsequently imp led in the case.

2. A rejoinder has been filed by the petitioner. It is alleged that the shortage in store took place as a result of cheating by Mr. Balraj, in charge Store Liaison Cell PNB in league with Mr. Pat Ram and the driver and that in routine goods supplied was short than what was shown on the vouchers. The petitioner reiterates that he was not responsible for any shortage and also not liable to pay any amount towards any such shortage.

3. The petitioner challenges his dismissal. The challenge, however, cannot be based on the facts he has alleged in his writ petition and rejoinder. This Court cannot substitute its findings for the findings of the Inquiry Officer. The petitioner was served with a charge-sheet in respect of shortage and the disciplinary inquiry was initiated in which the petitioner was allowed an opportunity to defend himself. There is no allegation that the petitioner was not allowed full opportunity to defend himself. Nor is there any allegation that there was no evidence before the Inquiry Officer on the basis of which the Inquiry Officer could return a finding against the petitioner. The report of the Inquiry Officer placed on the record shows that the Management had produced witness- T.C. Vashisht who had conducted the surprise stock checking of the Mobile Van No. 8150. Mr. T.C. Vashisht was also cross-examined by the petitioner. Other witness examined was Mr. Shiv Parshad, Accounts Assistant. The two charged employees in this case only tried to shift the responsibility on each other. The Inquiry Officer after considering the stand taken by the two charged officials and the evidence produced by the Presenting Officer arrived at a finding that the petitioner was responsible for the shortage.

4. There is no allegation that the rules of natural justice were not followed in removing the petitioner from employment. The petitioner made a representation against the inquiry report. The same was considered by the Managing Director at the time of imposing the penalty of dismissal. Petitioner's representation is at Annexure-P7 and the order of penalty is at Annexure-P8. The petitioner even filed an appeal against the order of dismissal but the same also has been dismissed by the Chairman of the Super Bazar Stores Limited vide an order of 26th July, 2001. The petitioner claims that the order has been passed without application of mind. This is not correct. The Chairman has considered the ground of appeal, viz., offer to reimburse the stock shortage, and has found that the same is not a tangible ground.

5. This Court cannot interfere with the punishment unless the same is so severe that it shocks the conscience of the court. No employer can be compelled to bear with an employee on which he has lost his trust. The punishment cannot be said to be shockingly disproportionate to the misconduct. Hence there is no merit in

the writ petition. The same is accordingly dismissed.