
(2012) 10 P&H CK 0020
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 2967 of 2009 (O and M)

The Punjab State Cooperative Supply and Marketing
Federation Ltd.

APPELLANT

Vs

Secretary, Cooperation (Appeals) and Others

RESPONDENT

Date of Decision : 30-10-2012

Acts Referred:

Citation : (2013) 3 SCT 142

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Puneet Gupta, for the Appellant;

Final Decision : Allowed

Judgement

Rajesh Bindal, J.—The petitioner has approached this court impugning the order dated 29.7.2008, passed by Secretary Cooperation

(Appeals), Punjab, whereby the order of punishment dated 20.2.2007 and 16.7.2007 passed by Additional Managing Director (G) and Managing

Director of the Markfed respectively were set aside and the matter was remanded back to the Managing Director of the Markfed to decide the

case afresh from submission of enquiry report onwards. Learned counsel for the petitioner submitted that in the present case, charge-sheet was

issued to respondents No. 2 to 4. After considering the reply filed by them, enquiry officer was appointed, who submitted his report on 20.6.2006

exonerating the delinquent officers. The report was submitted to the punishing authority, who did not agree with the finding of the enquiry officer.

After supplying a copy of the enquiry report to respondents No. 2 to 4 and affording them opportunity of hearing, they were awarded minor

punishment of stoppage of one annual grade increment without cumulative effect and also recovery of the financial loss suffered by the Markfed.

Respondents No. 2 to 4 challenged the same before the appellate authority, namely, Managing Director of the Markfed, but the appeal was

dismissed. Thereafter, the order was impugned before the revisional authority, who vide impugned order, while setting aside the orders passed by

the authorities below remanded the case back.

2. Learned counsel for the petitioner, while placing reliance upon a judgment of Full Bench of this court in Dr. K.G. Tiwari v. State of Haryana,

2002 (2) SCT 915, submitted that once a charge-sheet has been issued to an employee for imposition of a major penalty, after enquiry minor

punishment can be inflicted. In the present case, though initially the charge-sheet was issued for imposition of major penalty, however, finally after

supplying copy of the enquiry report to the delinquent officers and affording them opportunity of hearing, minor punishment was imposed. The

order passed by the revisional authority setting aside the same holding it to be without jurisdiction is erroneous, hence, liable to be set aside.

3. At the time of hearing, no one represented respondents No. 3 and 4. The name of respondent No. 2 had been deleted vide order dated

18.11.2010 as he had expired. The writ petition was dismissed in default on 26.11.2011. Notice in the application for restoration of the petition

was issued to the respondents. It is recorded in the order dated 5.8.2011 that despite service no one represented the respondents. The writ

petition was restored to its original number. On 12.8.2011, notice was directed to be issued to counsel for respondents No. 2 to 4. As per office

report, for the next date of hearing, the counsel had been informed, but still none represented the private respondents thereafter.

4. Counsel for the petitioner was heard and the paper book perused.

5. Vide impugned order passed by Secretary, Co-operation (Appeals), Punjab, the order inflicting minor punishment on respondents No. 2 to 4

was set aside merely holding that once charge sheet had been issued under Rule 6(B) of the Punjab State Co-operative Supply & Marketing

Federation Employees (Punishment & Appeal) Rules, 1990, before inflicting minor punishment as envisaged under Rule 6(A) of the said Rules,

notice was required to be issued under that Rule.

6. The issue was considered by the Full Bench of this Court in Dr. K.G. Tiwari's case (supra) and it was held that once a charge-sheet is issued

for imposition of major penalty and entire procedure prescribed under the rules for the purpose is fully complied with, thereafter it will be open to

the disciplinary authority to impose minor or major punishment, as may be called for. The enquiry proceedings initiated for imposition of major

punishment cannot be dropped in between after receipt of reply of the delinquent officer by imposing a minor punishment as the same will prejudice

the charge-sheeted employee.

7. In the case in hand, after conclusion of the enquiry and considering the report, though while disagreeing with the findings recorded by the enquiry

officer, the disciplinary authority instead of imposing major punishment had merely imposed minor punishment on the charge-sheeted employees

thereby withholding one increment without cumulative effect and directing recovery of the pecuniary loss suffered, the same cannot be said to be in

violation of the provisions of law. For the reasons mentioned above, the writ petition is allowed. The impugned order dated 29.7.2008 (Annexure-

P 8) is quashed.