
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

L.P.A. No.1811 of 2011 (O&M)
Date of Decision:15.01.2013

The Managing Director, Food Corporation of India & Ors. ...Appellants

Vs.

A.K.Behal ...Respondent

CORAM: Hon'ble Mr. Justice A.K.Sikri, Chief Justice
Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Hari Pal Verma, Advocate,
for the appellants.

Mr. Vivek Sharma, Advocate,
for the respondent.

Rakesh Kumar Jain, J.

In short, the facts of the case are that the respondent was removed from service on the basis of an inquiry initiated on the charge of misappropriation of 200 bags of paddy and that he had not produced inward and outward gate passes at ARDC Kilaraipur but remained absent from duty from 16.04.1986.

The main issue was as to whether the appellants could prove the charge about the loss of 200 bags of paddy. It is admitted by learned counsel for the appellants that no evidence was led by them in this regard except for the statement made by the respondent which has been taken to be his admission. The statement of the respondent is as under:-

“I had directed my AG.III(D) to issue gate passes. According, they issued 5 gate passes containing 160 bags each and as per gate passes, the watchman had made entry in the gate pass outward register numbering to 800 bags. After the issuance of gate passes, the party had requested to issue bags from the same godown from where some other bags had been issued. So, as per their request, we issued 600 bags from this godown and 200 bags from other godown. Hence, there is no difference in the number of bags.”

The learned Single Judge has allowed the writ petition on the ground that it is a case of no evidence and made the following observations:-

“10. If there had been no evidence at all with reference to the loss of 200 bags either through the actual physical verification or through the evidence of the witnesses, the findings that came to be passed that Mr. Behal was responsible was not justified. It was sought to be buttressed by the fact that he was questioned whether he had anything to say and Mr. Behal is reported to have said that he had issued 5 gate passes containing 160 bags each and the watchman's entry was only on the basis of such passes. He had also explained that after the issue of the gate passes, the party had requested to issue bags from the same godown from where some other bags had been issued and so as per the request, he had issued 600 bags from the godown which was under his charge and 200 bags from the other godown. This was a manner of explanation as to how all the 800 bags of paddy did not go from the godown under his supervision. The Enquiry Officer also held that since Shri S.S.Grewal and Mr.A.S.Dhillon had both stated that they had found a

discrepancy in the entries between the two registers, the burden of proof was on the two charged officers to say that they had not been responsible for the loss of the stock. This observation also is a wrong statement of law for the burden of proof never shifts. If the officer was explaining that 600 bags of paddy alone had been seen from the godown under his control and another 200 bags of paddy had gone from yet another godown, it was absolutely essential to find whether such a statement was correct or not and that 800 bags of paddy had not left from the godown under the control of Mr. Behal and Mr. Sapra.”

After hearing learned counsel for the parties, we are satisfied that the order of the learned Single Judge is without any blemish as the appellants have failed to produce any evidence to prove the guilt of the respondent.

In view of the above, we do not find any merit in the present appeal and, hence, the same is hereby dismissed, though without any order as to costs.

(A.K.SIKRI)
CHIEF JUSTICE

15.1.2013
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(RAKESH KUMAR JAIN)
JUDGE