

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00704/2016

Chandigarh, this the 30th of November, 2017

...
CORAM:HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MS. P. GOPINATH, MEMBER (A).

...

Kirpa Shankar Saroj, IAS (Group 'A') son of Late Sh. Banshu Ram, aged 53 years, Secretary Welfare, Punjab, Sector 9, Chandigarh, resident of House No. 921, Sector 39-A, Chandigarh.

.... Applicant

(Argued by: Mr. Rohit Sharma, Advocate)

Versus

1. Union of India through the Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi.
2. Under Secretary to the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training, North Block, New Delhi.
3. The State of Punjab through the Chief Secretary to Government of India, Punjab, Punjab Civil Secretariat, Chandigarh.

Respondents

(Argued by: Ms. Nidhi Garg, Advocate for Respondents No.1&2. Mr. Rakesh Verma, Advocate, for Respondent No.3).

ORDER (Oral)
JUSTICE M.S. SULLAR, MEMBER (J)

1. The matrix of the facts and the material, culminating in the commencement, and relevant for disposal of the instant Original Application (OA), and exposted from the record, is that applicant Kirpa Shankar Saroj, IAS, while performing his duties

as Managing Director of the Punjab Agro Foodgrains Limited, Chandigarh, has committed certain grave misconduct, during the course of his employment. As a consequences thereof, he was charge sheeted, as under, vide impugned Memorandum/Articles of charge-sheet dated 21.5.2008 (Annexure A-1) :-

“LIST OF CHARGES

Sh. Kripa Shankar Saroj, IAS (now under suspension) during his tenure with Punjab Agro Foodgrains Corporation Ltd. as Managing Director has committed certain acts of omission and commission for which he is charged as under :-

1. PAFC ventured into Iron Ore export business regarding which it had no mandate.

2. No proper procedures were followed in the selection of the M/s Reliance Polycrete Ltd. for the Iron Ore export business.

3. Funds aggregating to Rs.17.10 Crores upto 17.09.2004, were released to the M/s Reliance Polycrete Ltd. without proper verification and exercise of due diligence in securing the funds of the Corporation.

4. Independent survey/inspection agency was not appointed to verify the quality / quantity and ensure the actual and timely loading of material by the M/s Reliance Polycrete Ltd. for export.

5. The amount of 2nd LC Rs.4.90 Crores was released in spite of the fact that earlier shipment done by M/s Reliance Polycrete Ltd. was lesser in quality, quantity and value in terms of the amount released to the M/s Reliance Polycrete Ltd.

6. The value and title of property mortgaged by M/s Reliance Polycrete Ltd. in favour of PAFC, in lieu of dishonored cheques was never got assessed by PAFC's own valuer or proper documentation done for mortgage of the assets.

7. The resolution to ratify the export activity in the Board of Directors' meeting dated 29.06.2004, was passed in the absence of regular Chairman and other non-official Directors, which was not only improper but apparently done to cover up the administrative lapses.

8. Funds were mis-utilized by diverting Rs.13,15,98,704/- out of the cash credit limit to adjust the packing credit limit, which is a serious irregularity on his part.

9. As a result of the above actions, the funds of PAFC amounting to Rs.14 Crores approximately (upto 31.03.2007), have not only been blocked but possibility of non-recovery also exists which would result in direct financial loss to PAFC. In addition, the Corporation has had to incur additional costs to recover the amount in default and has to bear the penal interest on loan taken for financing the activity.

This has adversely affected the image of Punjab Agro Foodgrains Limited and its business dealings.

By doing so he has misused the powers vested in him and thus he has violated Rule 3(1) of AIS (Conduct) Rules, 1968 rendering himself liable for disciplinary action under Rule 8 of AIS (Discipline and Appeal) Rules, 1969”.

2. Taking into consideration the grave misconduct / charges, Financial Commissioner Revenue, Punjab, was appointed as

Inquiry Officer (IO), who recorded the evidence of the parties. After following the due procedure of enquiry, the IO concluded that all the charges, enclosed in the charge-sheet against the applicant, stand duly proved, vide impugned inquiry report dated 11.12.2008 (Annexure A-2).

3. Having completed all the codal formalities, taking into consideration the totality of the material & evidence on record, and after providing due opportunity at every relevant stage to the applicant, a (lesser) penalty of reduction to a lower stage, in the time scale of pay, by one stage for a period of 3 years, without cumulative effect, not adversely affecting his pension, was imposed on him, vide impugned order dated 3.9.2013 (Annexure A-3), by the Competent Authority.

4. Sequelly, the statutory appeal dated 15.10.2013 (Annexure A-11) filed by the applicant was dismissed, as well, vide impugned order dated 18.3.2016 (Annexure A-4), by the Appellate Authority i.e. Hon'ble Prime Minister,

5. Aggrieved thereby, the applicant has preferred the instant OA challenging the impugned charge sheet dated 21.5.2008 (Annexure A-1), inquiry report dated 11.12.2009 (Annexure A-2), and orders dated 3.9.2013 (Annexure A-3), and 18.3.2016 (Annexure A-4), on usual grounds, mentioned therein in the main OA, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

6. On the contrary, the respondents have refuted the claim of the applicant and filed written statement, stoutly denying all the

allegations and grounds contained in the OA, and prayed for its dismissal.

7. We have heard the learned counsel for the parties and have gone through the record with their valuable help.

8. At the very outset, it may be frankly added here is that the learned counsel for the applicant did not point out any procedural illegality and irregularity, in the conduct of the departmental enquiry, in view of the ratio of law laid down by the Hon'ble Apex Court in the case of **Chairman-cum-Managing Director, Coal India Limited v. Mukul Kumar Choudhuri** reported in (2009) 15 SCC 620.

9. Having argued for some time, when this court was not inclined to re-appraise the evidence, or interfere in the concurrent findings of the quasi-judicial Disciplinary Authority and the Appellate Authority, in view of the law laid down by the Hon'ble Apex Court in the cases **B.C. Chaturvedi Vs. U.O.I. & Others** AIR 1996 SC 484 and **K.L. Shinde v. State of Mysore,** (1976) 3 SCC 76, then the learned counsel intends to withdraw the OA.

10. Therefore, OA is hereby dismissed as withdrawn, as prayed for.

(P. GOPINATH)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Dated: 30.11.2017

HC*