2026:PHHC:123605

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-7516-2013 (O&M)

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Sukhjinder Singh ... Petitioner

VS.

Punjab State Coop. Supply &
Marketing Fed. Ltd. & Anr. ... Respondents

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1.	**Judgment reserved on**	**12.08.2026**
2.	**Judgment pronounced on**	**02.09.2026**
3.	**Judgment uploaded on**	**03.09.2026**
4.	**Whether operative or full judgment**	**Full**
5.	**Delay in pronouncement of full judgment and reasons, if any**	**NA**

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CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

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Present: Mr. Udayveer Singh Brar, Advocate for the petitioner
Mr. Animesh Sharma, Advocate for respondent No.1
Mr. TPS Walia, AAG Punjab

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Sandeep Moudgil, J.

(1). The petitioner, who is the son of late Shri MS Cheema has approached this Court under Article 226 of the Constitution of India seeking a writ of certiorari for quashing the order dated 06.07.2005, whereby his father, while in service of respondent No.1, was visited with the punishment of reduction by two stages in the time scale of pay for the purpose of calculating his retiral dues, the appellate order dated 20.07.2010 and the order dated 16.08.2012 passed by the revisional authority. A further direction is sought to respondent No.1 to release all the pensionary benefits. The controversy essentially arises out of shortage of paddy stocks pertaining to crop year 1997-98 stored at the premises of M/s N.G.T. Rice Mill, Banur.

(2). The controversy in the present petition essentially arises out of the disciplinary proceedings initiated against the petitioner's father, Shri M.S.

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Cheema, who was serving as Branch Officer with respondent-Markfed and retired from service w.e.f. 31.12.2004, in relation to shortage of paddy crop of the year 1997-98 lying at the premises of M/s N.G.T. Rice Mill, Banur.

(3). On the basis of the enquiry report dated 03.03.2003, the disciplinary authority, vide order dated 06.07.2005, imposed the punishment of bringing down the petitioner's father by two stages in the time scale of pay for the purpose of calculating his retiral dues and as regards the stocks lying in joint custody of the petitioner and the miller, in the event the loss was not recovered from the miller through arbitration/legal proceedings, the same would be recovered from the charged officials along with interest in equal proportion.

(4). The record further shows that respondent-Markfed proceeded independently against the miller under Section 138 of the Negotiable Instruments Act followed by an FIR under Sections 379, 406 and 420 IPC and Section 7 of the Essential Commodities Act registered on 10.03.2000. Arbitration proceedings were also initiated, culminating initially in an award dated 02.04.2003 in favour of Markfed for Rs.41,04,665.70 along with interest. The said award was subsequently set aside by the learned District Judge on 05.02.2013 in proceedings under Section 34 of the Arbitration and Conciliation Act, 1996, whereafter the matter was considered by the Managing Director, Markfed, who vide order dated 31.03.2013 determined the claim at Rs.1,68,78,443/- with interest. Pursuant thereto, Markfed instituted a recovery suit before the competent Civil Court at Patiala claiming Rs.1,92,20,790/- with future interest against the miller.

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(5). Learned counsel for the petitioner submits that the impugned orders cannot be sustained as the enquiry did not establish misappropriation or embezzlement against the petitioner's father and the finding was confined to negligence. It is further submitted that the stock in question was lying with the miller in joint custody and the respondents themselves treated the miller as primarily liable for the financial loss by initiating criminal, arbitration and recovery proceedings against him. It is contended that the punishment order itself made recovery from the charged officials conditional upon failure to recover the loss from the miller and that such contingency had not arisen, particularly when substantial recovery had already been made and the remaining claim against the miller was pending adjudication. It is also submitted that the petitioner's father died on 26.09.2009 during pendency of his appeal and, therefore, in view of the resolution dated 29.09.1989, the proceedings ought not to have been continued to the prejudice of his estate.

(6). Per contra, learned counsel for the respondents submits that the disciplinary proceedings had culminated in the punishment order dated 06.07.2005 during the lifetime of the petitioner's father and, therefore, his subsequent death could not invalidate a punishment already imposed. It is submitted that the resolution dated 29.09.1989 itself distinguishes between a case where disciplinary proceedings are pending at the time of death and a case where an order of recovery has already been passed during the lifetime of the employee. In the latter situation, subsequent death does not affect recovery, which can be adjusted from the dues payable to the employee or pursued through other legal remedies. It is further submitted that the Inquiry Officer had found negligence on the part of the charged officials in safeguarding the paddy

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stocks and that, after considering the enquiry report, representations and personal hearing, the disciplinary authority rightly imposed the punishment of reduction by two stages.

(7). Heard learned counsel for the parties and the judgment was kept reserved on 12.08.2026.

(8). The first aspect which requires notice is that the enquiry did not establish that the petitioner's father had himself misappropriated or embezzled the paddy or derived any personal benefit from the shortage. The charge of misappropriation was not proved. Nevertheless, the Inquiry Officer found the charged officials negligent in the discharge of their duties and held that such negligence had enabled the miller to convert the paddy unauthorisedly. The disciplinary authority was, therefore, entitled to take disciplinary action for the misconduct actually found proved. The mere fact that the allegation of misappropriation was not established does not mean that the finding of negligence stood obliterated or that the disciplinary authority was precluded from imposing an appropriate penalty for such negligence.

(9). The punishment imposed also cannot be said, in the circumstances of the case, to be wholly disproportionate. The record concerns a substantial shortage of paddy valued at about Rs.26 lakhs and the Inquiry Officer found failure on the part of the charged officials to adequately discharge their duties in safeguarding the stocks. The punishment imposed was not dismissal from service or a direction to personally bear the entire loss forthwith, but reduction by two stages in the time scale of pay for the purpose of calculating retiral dues. The disciplinary authority further made recovery in respect of joint-custody stocks expressly conditional upon failure to recover the loss from the miller

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through arbitration/legal proceedings. The penalty, therefore, cannot be characterised as one which travels wholly beyond the misconduct proved.

(10). The subsequent death of the petitioner's father during pendency of the appeal also does not, by itself, render the punishment order dated 06.07.2005 non-existent. In this regard, the decision of the Supreme Court in ***Bitola Devi v. Union of India, Civil Appeal No.7717 of 2019***, decided on 30.09.2019, is instructive. The Supreme Court, while considering a circular providing for closure of disciplinary proceedings on the death of an employee, held:

> "We are of the view that the said Circular providing for the disciplinary proceedings to be closed immediately on the death of the charged Railway employee, would apply in a disciplinary case in which disciplinary proceedings are pending consideration. This is so as the employee would not be able to defend himself and the legal heirs may not be able to do so but would have no application to a case where the enquiry is completed and finding has been arrived at. Thus, in case an appeal or revision is pending, this Circular would have no application."

(11). The principle emerging from the aforesaid decision is that where the disciplinary enquiry has already culminated and a punishment has been imposed during the lifetime of the employee, the subsequent death of the employee during pendency of an appeal does not automatically nullify the punishment already imposed.

(12). In the present case, the punishment order was passed on 06.07.2005, whereas the petitioner's father expired on 26.09.2009. Thus, the death occurred almost four years after the disciplinary authority had concluded the proceedings and imposed the punishment. The appellate authority could,

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therefore, examine the legality of the punishment already imposed and the mere pendency of the appeal at the time of death did not extinguish the disciplinary order.

(13). The resolution dated 29.09.1989 does not lead to a different conclusion. On the contrary, the resolution itself distinguishes between a case where departmental proceedings are pending at the time of death and a case where recovery orders have already been passed during the lifetime of the employee. In the latter case, it expressly contemplates continuation of the recovery process against the dues of the employee or through other legal remedies. Since, in the present case, the punishment order had already been passed during the lifetime of the petitioner's father, his subsequent death cannot by itself invalidate the said order or the appellate consideration thereof.

(14). Consequently, the challenge to the orders dated 06.07.2005, 20.07.2010 and 16.08.2012 is devoid of merit.

(15). Dismissed.

(16). Pending application(s), if any, also stand disposed of.

02.09.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? : ***Yes/No***
2. Whether reportable? : *Yes/No*

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