

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.10770 of 2014

Date of Decision: 08.09.2015

Pawan Kumar

....Petitioner

Vs.

Punjab State Power Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr. IPS Kohli, Advocate
for the petitioner.

Mr. Alok Jain, Advocate
for respondents No.1 to 4.

Amol Rattan Singh, J (Oral)

It is not in dispute that the impugned order dated 02.05.2013 (Annexure P-3), imposing a punishment of stoppage of one increment without cumulative effect, i.e. a minor punishment, has been passed after the petitioner was issued a charge-sheet dated 13.09.2012, proposing a major punishment in respect of the charges, and he submitted a reply (Annexure P-2) thereto.

Thereafter, instead of either discharging the petitioner or, if his reply was not found to the satisfaction of the punishing authority, ordering a regular enquiry, the impugned order, imposing a minor punishment, was passed.

The appeal against the impugned order was also dismissed on 11.12.2013 (Annexure P-5).

On query, learned counsel for the respondents, though has tried

to defend the order, could not refute the law laid down by a Full Bench of this Court in **Dr. K.G. Tiwari Vs. State of Haryana**, 2002 (4) SLR 329.

In the aforesaid judgment, it was held as follows:-

“27 Therefore, we are unable to concur with the view expressed by the Division Benches of this Court in Samay Singh's case and Puran Chand Sharma's case, and also in the Single Bench decision of the Delhi High Court in I.D. Gupta's case, and that of the Calcutta High Court in M.M. Dutta's case (cited supra), in so far as they hold that even in a case where the chargesheet is issued for imposing a major penalty, the disciplinary authority can still, without holding an enquiry under the relevant Rule for imposing a major penalty, impose a minor penalty. To that extent, we hold that they are not good law. We also hold that the decision of the Hon'ble Supreme Court in Shadi Lal's case is not applicable to the facts of the cases our hand.

28. We hold that once the chargesheet is issued under Rule 7 of the Rules 1987 for the imposition of a major penalty, which envisages holding of a regular departmental enquiry, the disciplinary authority cannot by merely examining the reply to the chargesheet, inflict even a minor punishment without holding a complete departmental enquiry.”

In view of the clear enunciation of law on the subject, the impugned order dated 02.05.2013 (Annexure P-3), is quashed. However, the respondents are given liberty to proceed with the disciplinary proceedings, if they so wish, from the stage after the petitioner had submitted his reply to the charge-sheet.

The writ petition is accordingly disposed of.

September 08, 2015
vcgarg

(Amol Rattan Singh)
Judge