

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

CWP-15556 of 2014 (O&M)
Date of decision : 20.07.2015

Manohar Singh

...Petitioner

V/S

Punjab State Power Corporation Ltd. and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sharwan Sehgal, Advocate for the petitioner

Mr. Vivek Sharma, Advocate for respondents

JITENDRA CHAUHAN, J. (Oral)

This civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the charge sheet bearing Memo No.C-467 dated 30.11.2007 (Annexure P-2) and order dated 10.07.2014 (Annexure P-4) wherein respondent No.3 was appointed as an enquiry officer.

Learned counsel for the petitioner states that on 04.08.1970 he joined the PSEB as a Lineman and retired w.e.f 31.08.2007 after attaining the age of superannuation. On 30.11.2007, he was chargesheeted under Rule 2.2 (b) of Punjab Civil Services Rules Vol.II with regard to the irregularities from 01.04.2002 to 02.06.2003 and in response to this, he submitted the reply dated 20.05.2008 (Annexure P-3). After about six years, order dated 10.07.2014 was conveyed to the

petitioner wherein respondent No.2 had appointed the respondent No.3 as enquiry officer. Similarly situated employee i.e. Sh. Atma Singh Grewal had been granted relief by Hon'ble Supreme Court of India vide order dated 17.09.2013 passed in SLP (Civil) No.29589 of 2009 (Annexure P-8).

He placed reliance upon the judgment passed in **Gurdev Singh Vs. State of Punjab, 2004(2) RSJ 325** and **Parmanand Singh Vs. PSEB 2007(4) SCT 596** and **P. C. Gupta Vs. PSEB 2002(1) RSJ 509**

On the other hand, the learned counsel for the respondents is unable to controvert the fact that the case of the petitioner is not covered by the judgment passed in the case of Atma Singh Grewal (supra).

Heard.

Relevant paras No.14, 15, 16, 17 and 18 of Atma Singh Grewal's case (supra) are reproduced here as under:-

“14. Alas, inspite of the Government's own policy and reprimand from this Court, on numerous occasions, there is no significant positive effect on various Government officials who continue to take decision to file frivolous and vexatious appeals. It imposes unnecessary burden on the Courts. The opposite party which has succeeded in the Court below is also made to incur avoidable expenditure. Further, it causes delay in allowing the successful

litigant to reap the fruits of the judgment rendered by the Court below.

15. *No doubt, when a case is decided in favour of a party, the Court can award cost as well in his favour. It is stressed by this Court that such cost should be in real and compensatory terms and not merely symbolic. There can be exemplary costs as well when the appeal is completely devoid of any merit. [See Rameshwari Devi and Ors. v. Nirmala Devi and Ors.; (2011) 8 SCC 249]. However, the moot question is as to whether imposition of costs alone will prove deterrent? We don't think so. We are of the firm opinion that imposition of cost on the State/ PSU's alone is not going to make much difference as the officers taking such irresponsible decisions to file appeals are not personally affected because of the reason that cost, if imposed, comes from the government's coffers. Time has, therefore, come to take next step viz. recovery of cost from such officers who take such frivolous decisions of filing appeals, even after knowing well that these are totally vexatious and uncalled for appeals. We clarify that such an order of recovery of cost from the concerned officer be passed only in those cases where appeal is found to be ex-facie frivolous and the decision to file the appeal is also found to be palpably irrational and uncalled for.*

16. *In a case like the present, where the concerned officer took the decision to file the appeal,*

direction of the High Court to recover the cost from him cannot be faulted with. Sense of responsibility would drawn on such officers only when they are made to pay the costs from their pockets, instead of burdening the exchequer.

17. We are, therefore, not inclined to recall the aforesaid direction of the High Court to recover the cost from the officer concerned.

18. Dismissed with further cost of Rs. 10,000/-.”

The fact that the petitioner is similarly situated employee i.e. Atma Singh Grewal is not in dispute.

Accordingly, this petition is allowed and the chargesheet dated 30.11.2007 (Annexure P-2) & the order dated 10.07.2014 (Annexure P-4) are set aside.

20.07.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**