IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22333 of 2013
Date of Decision: **December 03, 2015**

Rajinder Parshad ...Petitioner

versus

UHBVNL and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.K. L. Dhingra, Advocate
for the petitioner.

Mr.P.S. Poonia, Advocate
for the respondents.

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HARINDER SINGH SIDHU, J.

By filing this petition, the petitioner has sought quashing of charge-sheet dated 24.2.2012 (Annexure P-3) issued to him about 1 year 7 months after his retirement. He has also sought directions to release DCRG amount along with interest.

Facts, as pleaded by the petitioner are that he had initially joined the respondent Department as Assistant Lineman (ALM). Later, he was promoted as Lineman, then as Assistant Foreman and ultimately, after rendering about 35 years of service, he superannuated as Junior Engineer on 30.11.2010. No Dues Certificate (NDC) was obtained from the concerned sections/works for the release of his pension and other retiral benefits and it was sent by the S.D.O.,Guhla to the Higher

Authorities vide communication dated 28.12.2010 (Annexure P-1). As there was no disciplinary proceeding pending against him, his pension and other retiral benefits were released, but the DCRG (entire amount) was withheld. The petitioner was issued a charge-sheet along with several others vide memo No.24.2.2012 (Annexure P-3), which was received by him on 5.4.2012. The statement of allegations reads as under:

> *"Sh.Rajinder Parshad, while working as JE/F(Retd.) in SDO (OP) S/Divn UHBVN, Guhla under (OP) Guhla has committed by following acts of omission and commission by unbecoming of an employee of the Nigam.*
>
> *1. That he has not recorded the entry of material supplied by consumer in the EMB and Form-4.*
>
> *2. That he has installed the Higher Capacity Transformers.*
>
> *3. That he has releasing the connection on flat rate instead of metered supply.*
>
> *4. That he has not submitted the CO's to the CA/Ledger Clerk for billing well in time."*

It is further stated that the petitioner immediately wrote to the respondents on 15.5.2012 (Annexure P-4) indicating that in the chargesheet the details of the consumer case etc. and the list of documents/witnesses were not supplied and requesting that the same be supplied. This was followed by another communication dated 28.9.2012 (Annexure P-5), whereby, the petitioner requested that list of documents and witnesses with details of each charge with name of consumers/

connections be supplied so that the reply to the chargesheet could be filed. He later submitted a request dated 10.5.2012 (Annexure P-7) that the chargesheet be withdrawn. In this he again pointed out that the chargesheet is vague as it did not give detail of the charges, names of consumers, dates or place and other details so that a proper reply thereto could be filed. Thereafter again communication dated 18.4.2013(Annexure P-8) was addressed with the same request but no positive response was received.

It is the case of the petitioner that he never remained careless or negligent in discharge of his duties but without details being supplied he was unable to submit his reply. It is further stated that he was not competent to do the acts alleged, as he was ALM/LM more than 15 years back.

Hence, the present petition challenging the charge-sheet (Annexure P-3).

The respondents have filed written statement stating that as per letter issued by the Account Officer, UHBVNL, Panchkula vide his office memo No.CA/UH/NG/Vol.47 Ch-265 dt. 12.7.2010 (Annexure R-3/1), the petitioner was held responsible for Rs.4,67,812/- of which Rs.434441/- is on account of non-verification of EMB, Rs.30274/- is on account of recovery of missing parts/ shortage of T/F oil and Rs.3097/- due to Rev. Audit para. It is further stated that the petitioner has also failed to produce all technical record CA-21, 22 firm 4 SMB CA-

104 checking register, etc. (RA) for different periods commencing from 19.6.2006 to 23.1.2009 when he was working under the office of SDO (OP), Sub Division UHBVN, Guhla. The office letter dated 3.5.2011 (Annexure R-3/2) regarding misappropriation of Nigam material was also issued by the office of XEN 'OP' Divn., UHBVN, Guhla and thereafter, letter dated 28.9.2011 (Annexure R-3/3) was also written by SDO 'OP' S/Divn.Guhla requesting the petitioner to submit the pending MAS Account with the respondents, but he neither gave any reply to the same, nor submitted the MAS Account. It is the case of the respondents that since the petitioner did not submit the MAS Account as also due to several other acts of omission and commission committed by him, charge-sheet in question was issued to the petitioner.

The petitioner has filed replication stating that the letter Annexure R-3/1 was never communicated to him and it was only after 1 year 7 months after his retirement that he was served with a vague charge-sheet dated 24.2.2012 (Annexure P-3) which refers to allegations of a period 15 years back when he was posted at Pehowa.

Ld. Counsel for the petitioner has argued that the charge-sheet is vague and is liable to be quashed on this ground alone.

A bare reading of the statements of allegations annexed to the charge-sheet (Annexure P-3), reproduced above, substantiates the claim of the petitioner. The allegations speak of installation of Higher Capacity Transformers and releasing of connections on flat rates instead of meter supply by the petitioner. It also alleges non recording of entry of material supplied by consumer in the EMB and Form-4 and non-submission of CO's to the CA/Ledger Clerk for billing well in time. Plainly these allegations are bereft of any meaningful detail. Nothing could be more vague. Despite the petitioner repeatedly requesting the respondents to supply him the details of the charges, names of consumers, dates or place and other relevant facts so that a proper reply to the chargesheet could be given, but he has received no response.

The Hon'ble Supreme Court in various cases has upheld quashing of a chargesheet which has been found to be vague.

In **Transport Commissioner, Madras-5 vs. A.Radha Krishna Moorthy, 95(3) RSJ 85,** the Hon'ble Supreme Court affirmed the decision of the Tamil Nadu Administrative Tribunal, which had quashed the charge-sheet on the ground that the charges communicated were vague and not elucidated by the statement of the particulars. It was observed:

> *"9. Insofar as the vagueness of the charges is concerned we find that it deserves acceptance. It is asserted by Shri Vaidyanathan, learned counsel for the respondent that except the memo of charges dated 4.6.89, no other particulars of charges or supporting particulars were supplied. This assertion could not be denied by the learned counsel for the appellant. A reading of charges would show that they*

are not specific and clear. They do not point out clearly the precise charge against the respondent, which he was expected to meet. One can understand the charges being accompanied by a statement of particulars or other statement furnishing the particulars of the aforesaid charges but that was not done. The charges are general in nature to the effect that the respondent along with eight other officials indulged in misappropriation by falsification of accounts. What part did the respondent play, which account did he falsify or help falsify, which amount did he individually or together with other named persons misappropriate, are not particularised. The charge is a general one. It is significant to notice that respondent has been objecting to the charges on the ground of vagueness from the earlier stage and yet he was not furnished with the particulars. It is brought to our notice that respondent's name was not included in the schedule appended to G.O. Ms. 928 dated 25.4.88 mentioning the names of officials responsible for falsification of accounts and misappropriation and that he is also not made an accused in the criminal proceedings initiated in that behalf."

Again the Hon'ble Supreme Court in **<u>Govt. of A.P. and others vs. A.Venkata Raidu</u>, (2007) 1 Supreme Court Cases 338** held that a charge-sheet should not be vague, but should be specific:

"9. We respectfully agree with the view taken by the High Court. It is a settled principle of natural justice that if any material is sought to be used in an enquiry, then copies of that material should be supplied to the party against whom such enquiry is held. In Charge No. 1, what is mentioned is that the respondent violated the Orders issued by the Government. However, no details of these Orders have been mentioned in Charge No. 1. It is well settled that a charge-sheet should not be vague but should be specific. The authority should have mentioned the date of the G.O which is said to have been violated by the respondent, the number of that G.O, etc. but that was not done. Copies of the said G.Os or directions of the Government were not even placed before the Enquiry Officer. Hence, Charge No. 1 was not specific and hence no finding of guilt

> *can be fixed on the basis of that Charge. Moreover, as the High Court has found, the respondent only renewed the deposit already made by his predecessor. Hence, we are of the opinion that the respondent cannot be found guilty for the offence charged."*

Similar is the position in the present case. Apart from the charge-sheet being totally vague, no documents/ particulars were supplied to indicate the date of alleged misconduct/irregularity/misappropriation or any other lapse on the part of the petitioner while discharging his duties.

Accordingly, the petition is allowed and the Charge-sheet dated 24.2.2012 (Annexure P-3) is quashed. It is ordered that the due amount of DCRG be paid to the petitioner with interest at the rate of 8% per annum, with effect from the date it was payable till its actual payment.

December 03, 2015 **(HARINDER SINGH SIDHU)**
JUDGE

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