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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: October 07, 2015

+ **W.P.(C) 3708/2000**

SHIVJI LAL Petitioner

Through: Mr. S.S. Duggal and Mr. V.K.
Tandon, Advocates

versus

DVB Respondent

Through: Mr. S.C. Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Consequent upon a Departmental Inquiry, penalty of removal from service was awarded to petitioner on 12th November, 1999 (*Annexure A-2*) by the Disciplinary Authority which is under challenge in this petition. At the time of the initiation of the departmental proceedings, petitioner was working as a Meter Superintendent Reader (MSR) in Delhi Vidyut Board. The penalty of removal from service awarded to petitioner stands affirmed by the Appellate Authority vide order of 9th February, 2000. The imputation of misconduct attributed to petitioner is that on 27th December, 1990, he had visited the industrial premises of M/s. V.K. Metal in reference to the request of the consumer that the meter is not in use. Petitioner had inspected the meter bearing K. No.1258921 of the consumer-M/s.V.K. Metal and had made remark in the Meter Reading

Sheet that the supply was not used. Similar remarks were made on the letter of the consumer. Not satisfied with the report of petitioner, a joint inspection report of the premises of M/s. V.K. Metal was carried out on the very next day i.e. 28th December, 1990 and it was found that the aforesaid K. No. had connected load of about 200 KW as against the sanctioned load of 120 HP. The charge against petitioner was that he had made wrong entries in the Meter Reading Book with malafide intention of extending undue benefit to consumer i.e. M/s. V.K. Metal.

During the Inquiry proceedings, respondent had got examined nine witnesses, which were duly cross-examined by petitioner. Pertinently, the Joint Inspection Report stands proved by Mr. S.D. Sharma (PW-4).

The stand taken by petitioner during the Inquiry proceedings, as noted in the Inquiry Report, is as under: -

“The plea taken by C.O. that it has not been mentioned in the joint inspection report i.e. Ex.S.1, 1A and 1B from which K.No. the supply was being sublet and misused and Ex.S.1, S.1B and S.1C does not indicate the K.No. of the electric connection installed in the premises of M/s. V.K. Metals, C-21, SMA Indl. Area, Delhi. The above said plea which was taken by C.O. is wrong, baseless and has no ground to stand because Ex.S.1A and S.1B is corroborated with another documents i.e. Ex. S.2 MTD Report and S.2 and S.3A i.e. the joint inspection of Enforcement Report which was taken on Enforcement Proforma on 28.12.90 of the day of joint inspection report. The plea taken by C.O. regarding Ex. S.2 has also been considered wrong because the K.No. 003-125892-IP and 125893-IL has clearly mentioned on Ex.S.2.”

The relevant findings returned by the Inquiry Officer are as under:-

“Ex.S.11 is the letter dated 24.12.90 of M/s. V.K. Metal written to A.F.O. giving intimation for not using the meter installed against K.No.1258921. The said letter was addressed to A.F.O. (D) SMB but there is no entry of the office of AFO (D) SMB on Ex.S.11. The entry of MSR instead of AFO on Ex.S.11 shows the malafide intention of the C.O. Normally, the site inspection was to be made by MRI/MR but Shri Shivji Lal, C.O. had himself made a site inspection and made a false report on the relevant meter reading sheet i.e. Ex.S.6 as well as on Ex.S.11 on the consumer letter. Hence all this thing shows malafide intention or ulterior motive while recording these remarks and undue benefit was extended to the consumer as C.O. had reported himself wrong remarks to give undue benefit to the consumer because the supply was in use at the time of joint inspection made on 28.12.90 i.e. on the very next day of the visit of the C.O. The plea taken by C.O. i.e. joint inspection report dated 28.12.90 i.e. Ex.S.1, S.1A and S.1B does not indicate any readings against K. No.1258921 whereas the reading recorded by C.O. on meter reading sheet i.e. Ex.S.6 was shown on 953X10 on 27.12.90.

The plea taken by C.O. is not tenable because the joint Enforcement Report and MTD Report were prepared on the same day on Enforcement Proforma i.e. Ex. S.3 and S.3A and MTD Proforma i.e. Ex.S2 respectively. K. No.1258921 and meter No.4H-8510932 does not exist in Ex.S.2 and S.3 and S.3A, and these reports were prepared by some of the members of the joint inspection team. Therefore, Ex.S.1, S.1A and S.1B are corroborated with Ex.S.2 and S.3 and S.3A. Thus it has been proved from Ex.S.1A, S.1B that the supply was found sublet and the load was also found with about 200 KW where the sanctioned load was 120 HP (90 KW) and the supply was found in use on the joint inspection carried out on 28.12.90 i.e. On the very next day of the visit of the C.O. Thus the report of Shri Shivji Lal, C.O. which was given in meter reading sheet i.e. Ex.S.6 is proved

wrong and it was with malafide intention and to give undue benefit to M/s. V.K. Metal, C-21, SMA Indl. Area, Delhi. This fact was again confirmed by MTD during inspection on 26.11.90 as per Ex.S.4, S.7 and Ex.S.8 Even that the C.O. gave wrong remarks that the supply was not in use. Actually, the supply was in use as it has been established from documents Ex.S.1, S.1A, S.1B. S.2, S.3, S.3A, S.5, S.7 and S.8.”

To assail the Inquiry Report and the order of 12th November, 1999 (Annexure A-2) of the Disciplinary Authority, it was submitted by learned counsel for petitioner that the Inquiry Report is utterly vague and arbitrary and in the Inquiry Report, charges levelled against petitioner do not stand proved, therefore, the Appellate Authority has erroneously upheld the Disciplinary Authority's order of 12th November, 1999 (Annexure A-2) of removal from service of petitioner.

Learned counsel for petitioner submits that the Inspection Report of 26th November, 1990 has been withheld whereas in the said Report, it was shown that the meter is defective. It is vehemently submitted by learned counsel for petitioner that there is nothing to show that the supply was diverted from which K. No.. In this regard, attention of this Court was drawn to the deposition of *Mr.S.D.Sharma (PW-4)*.

Learned counsel for petitioner submits that when petitioner had inspected the K. No. in question, load was not connected and after the inspection, the consumer may have connected the load and so, petitioner cannot be held guilty on the charge leveled against him.

Learned counsel for respondent supports that impugned order and submits that the joint inspection was carried out in respect of K. No. as mentioned in the deposition of PW-4 and that it is already noted in the

earlier Inspection Report of 26th November, 1990 that the disk was moving, but the meter reading had stopped and so, the meter was defective and even in the inspection report, it has been so found and so, the charges stand proved against petitioner and there is no substance in the stand taken by petitioner before this Court.

Upon hearing and on perusal of the impugned order, the Inquiry Report as well as the material on record, this Court finds that in the earlier Inspection conducted on 26th November, 1990, the meter in question was found to be defective. It is apparent from the aforesaid Inspection Report of 26th November, 1990 that the meter reading was stopped but the disk was moving. Meaning thereby, the electricity was being consumed and so, the meter was said to be defective whereas the consumer in the instant case had intimated that he was not using the meter in question and on inspection, petitioner had reported that the meter in question was not in use.

Joint Inspection conducted on the next very day revealed that though the meter in question was not giving any reading, but its disk was moving. This makes it clear that the electricity was being consumed without being metered. The K. No. in question finds mention in the Joint Inspection Report and so, it cannot be said that it is not clear from which K. No. there was diversion of electricity. From the deposition of Mr. S.D. Sharma (PW-4), the Joint Inspection Report stands duly proved which goes to prove the charge against petitioner.

In the considered opinion of this Court, the findings returned by the Inquiry Officer are borne out from the evidence led by the respondent. The findings returned by the Inquiry Officer cannot be termed to be

perverse nor can it be said that the Inquiry Report is based on no evidence. The Inquiry Report does not suffer from any irrationality or procedural irregularity. Violation of principles of natural justice is neither alleged nor apparent from the impugned order or the material on record. Thus, finding no perversity in the impugned order, which affirms the Inquiry Report, this petition is dismissed while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

OCTOBER 07, 2015

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