

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8313-2014 (O&M)
Date of decision: 03.08.2016

Jarnail Singh

.....Petitioner

versus

PSPC Limited Patiala and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.V.K.Shukla, Advocate for the petitioner
Mr.Parminder Pal Singh Thethi, Advocate for respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Brief facts of the case are that Jarnail Singh petitioner was working as Junior Engineer with Punjab State Electricity Board now Punjab State Power Corporation Limited. He retired from service on 31.3.2005. After his retirement, he was served with charge sheet dated 8.6.2005 wherein it was alleged that one Malkit Singh who is posted as LDC operation in Sub Division Nathuwala had applied for a 3 HP tubewell connection and that at the time of releasing of connection, the present petitioner, on the asking of the applicant that he has got some other land, released the connection in the land of one Kulwinder Singh son of Nachhattar Singh, without taking the proof of the ownership of the land, which is a violation of the rules and the regulations of the said Corporation. After the inquiry, initially, a 5% cut in the pension was imposed vide order dated 29.5.2007. Against the said order the petitioner preferred departmental appeal and approached the appellate authority seeking quashing of the punishment order but same was dismissed

vide order dated 6.11.2008. Aggrieved with both the orders, the petitioner approached this Court by filing CWP No.12270 of 2010, which was decided on 23.5.2011, wherein this Court set aside the said punishment order on the ground it is not a speaking order and also set aside the order dated 6.11.2008. However, liberty was given to the respondent to reconsider the matter and pass a speaking order in accordance with law. Now the respondents have passed a speaking order dated 28.7.2011 (Annexure P7), which has been challenged before this Court.

I have heard learned counsel for the parties and have also carefully gone through the file.

There is no doubt that in the present order Annexure P7 detailed reasons have been given for passing the order. The punishment of 5% cut in the pension of the petitioner has been imposed.

Learned counsel for the petitioner has argued that no pecuniary loss was caused to the department. Therefore, cut in the pension could not be imposed under Rule 2.2(b) of the Punjab Civil Services Rules, Volume II.

I am of the view that under Rule 2.2(b), the punishment can be imposed for grave misconduct and in addition to that if some pecuniary loss is caused, recovery can also be effected. Recovery for causing pecuniary loss is in addition to the cut in the pension that can be permanent or temporary for a particular period. Here, in this case, no recovery is sought to be effected from the petitioner and only cut in the pension has been imposed.

Learned counsel for the petitioner has also relied upon Full Bench authority of this Court in the case of Dr.Ishar Singh vs. State of Punjab and another, 1994(3) RSJ 543. The perusal of the said authority

shows that in the said case, following four questions were considered for decision:-

- (1) Whether withholding or postponing the payment of pension or gratuity amount due to account of commutation of pension is permissible in law?*
- (2) Whether the authorities could withhold or postpone the payment of retiral benefits?*
- (3) Whether the Government can initiate or continue with the departmental enquiry long after the date of alleged lapse in spite of the fact that the officer had retired from service many years back?*
- (4) Should the enquiry proceedings be quashed on the ground of long pendency alone?*

However, the question as to whether a cut in the pension can be imposed only on the ground of pecuniary loss was not considered and decided. Learned counsel for the petitioner has also relied upon a Single Bench authority of this Court in the case of Wasdev Singh vs. State of Punjab, 1997(1) RSJ 740. In the said case, while applying the aforesaid authority of Full Bench, it was held that the recovery from the pension can only be made if pecuniary loss is caused. However, it was never discussed and decided that government has a right to impose permanent cut or cut for a particular period under Rule 2.2(b) and also recover the loss if it is found that some pecuniary loss was caused to the government. Therefore, the said authority is also not attracted in the present case.

In the present case, there was grave misconduct on the part of the petitioner while working as Junior Engineer, therefore, punishment has been imposed. The grouse of the petitioner is that SDO of the department was also charge sheeted and he has been imposed a cut of 5% for two years, whereas in the case of the petitioner, it is permanent cut in pension.

I am of the view that the facts of the case qua the said SDO are different. Perusal of the order Annexure P8 shows that he was supervisory officer and on finding illegality, he had disconnected the connection. Therefore, there were mitigating circumstances to pass a different order. Therefore, petitioner cannot claim parity with the punishment order passed qua the said SDO. The said order is a well reasoned and there is no ground to set aside the same.

Resultantly, the present writ petition stands dismissed.

03.08.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes/ No

Whether Reportable:

Yes/No