

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9641 of 2014

Date of Decision:26.04.2016

Surjeet Ram Saini

.....Petitioner

Versus

**Uttar Haryana Bijli Vitran Nigam
Limited, Panchkula and others**

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr.R.A.Sheoran, Advocate,
for the petitioner.

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

RITU BAHRI, J.

By way of the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner is seeking quashing of order dated 07.12.2006 (Annexure P-4) passed by respondent No.5, vide which his two annual increments without future effect have been stopped and the orders dated 20.02.2009 (Annexure P-8) and dated 26.04.2013 (Annexure P-9), whereby his appeal and mercy appeal have been rejected.

The petitioner joined the service in Haryana State Electricity Board as Lower Divisional Clerk on 04.03.1986. Thereafter, he was allocated to Uttar Haryana Bijli Vitran Nigam Limited (hereinafter called the "UHBVNL") in the year, 1998. One

consumer Madan Singh had made an application for connection of his tubewell along with change of name as his father had expired. The consumer was asked to deposit ₹3348/- and the case was sent to the Divisional Officer for approval, which was received on 19.05.1999. Thereafter, the consumer gave a representation that the estimate had been wrongly made of six number of poles whereas only two poles were required on the spot. Sh.Amar Singh, Junior Engineer, prepared a fresh estimate for ₹1607/- for two number of poles and other material and the said amount was deposited by the consumer on 17.06.1999. A vigilance inquiry was conducted, in which, it was found that the earlier estimate prepared by Amar Singh, Junior Engineer, was found misplaced in the file but sketch of six poles prepared by him and approved by the Sub Divisional Officer was found available in the record.

The petitioner was issued a show cause notice dated 01.01.2001(Annexure P-1) with the allegation that it was the petitioner-Surjeet Ram Saini, who did not make available the earlier estimate file to the vigilance party as he was custodian of that official record.

The petitioner submitted his reply 16.01.2001(Annexure P-2) to the said show cause notice. The comments dated 25.02.2003 (Annexure P-3) were sent by the Sub Divisional Officer (Operation), UHBVNL, Barwala, to the XEN (Operation) Division, UHBVNL, Panchkula. **As per comments, Sh.Amar Singh, Junior Engineer, had made the initial estimate of ₹3348/- of six number of poles and was served a letter dated 27.05.1999 for**

preparation of wrong estimate. He was given a show cause notice by the Superintending Engineer on 02.02.2001. The work was given to Amar Singh and after completing the work, the file was returned by him. When the case was enquired by the vigilance party, earlier estimate was not available in the file. However, a sketch of six number of poles was produced before the vigilance party, which was sufficient to prove that the estimate prepared by Amar Singh, Junior Engineer, at the first instance, was not correct. In this background, petitioner-Surjeet Ram Saini, LDC, was not responsible for preparing the wrong estimate. Thereafter, the impugned order dated 07.12.2006 (Annexure P-4) was passed imposing a penalty of stoppage of two annual increments without future effect. Against the order (Annexure P-4), the appeal filed by the petitioner was rejected. Thereafter, the petitioner filed mercy appeal, which was dismissed being time barred. Hence, the present writ petition.

In the written statement, the respondents have reiterated the stand taken by respondent No.5 while imposing punishment vide order (Annexure P-4) when the vigilance inquiry was conducted against Amar Singh, Junior Engineer, the petitioner was working as LDC (Consumer Clerk) and he misplaced the file along with the deposit estimates and did not make available to show it to the vigilance party in connivance with the Junior Engineer. In this background, punishment order does not require any interference.

After hearing the learned counsel for the parties and

going through the contents of Annexure P-3, i.e. the comments sent by the SDO (Operation) Sub Division UNBVNL, Barwala to the XEN (Operation) UNBVNL, Panchkula, on 25.02.2003, it is abundantly clear that it was Amar Singh, Junior Engineer, who had prepared the estimate for completing the work of consumer-Madan Singh and after completing the work, the file was in his custody when the matter was enquired by the vigilance. However, the old estimate was not available, but the sketch of six number of poles which was produced before the Vigilance, was sufficient to prove that the estimate prepared by Amar Singh, Junior Engineer, at the first instance, was not correct. Even, if the old estimate was not available, petitioner-Surjeet Ram Saini, LDC, could not be held responsible for preparing the wrong estimate. It was not the petitioner, who on the application made by the consumer was required to make the estimate of installation of two poles connection. It is not the case of the respondents that estimate of ₹3348/- was made by the petitioner. In the presence of site sketch of six number of poles, the complaint of the consumer that he was asked to deposit ₹3348/- was on account of the estimate prepared by Amar Singh, Junior Engineer. Hence, the Department has gone wrong in imposing the punishment of stoppage of two annual increments without future effect on the petitioner, who at no stage, was responsible for making preparation of wrong estimate of six number of poles on the application of consumer-Madan Singh. The Department instead of punishing Amar Singh, Junior Engineer, has chosen to impose punishment of stoppage of two annual increments without future effect of the

petitioner.

The writ petition is allowed accordingly and the orders dated 07.12.2006, 20.02.2009 and dated 26.04.2013 (Annexures P-4, P-8 and P-9), respectively, with all consequences arising therefrom, are hereby quashed.

April 26, 2016
seema

(RITU BAHRI)
JUDGE