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

LPA No.76 of 2016 (O&M)
Date of decision: March 30, 2016

Kiran Rosy ----Appellant

Versus

State of Punjab and others ---Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.Gurminder Singh, Sr. Advocate with
Mr.R.P.S. Bara Advocate for the appellant.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 18.11.2013 of the learned Single Judge, whereby, CWP No.15480 of 2013 filed by the appellant for quashing the order dated 10.12.2010 imposing major penalty of stoppage of two annual increments with cumulative effect was dismissed. Also challenged is the order dated 08.04.2015, whereby the Review Application No.187 of 2014 seeking review of the aforesaid judgment was dismissed. Along with the appeal, the applications seeking condonation of delay of 505 days in filing and 197 days delay in refiling the appeal have also been filed.

The appellant was issued charge sheet dated 30.06.2004 under Rule 8 of the Punjab Civil Services (Punishment & Appeal)

Rules, 1970 pertaining to the period 1994 when she was posted as Land Acquisition Collector, in the Department of Industries and Commerce, Punjab. The gravamen of the charges was that after the announcement of the Award No.3 on 4.06.1994 pertaining to acquisition of land situated in Village Patti Mehna (Bathinda), she on 14.06.1994, altered the type of land as mentioned in the Award, from Barani to Nehri etc. as per details mentioned in the Articles of Charge. This was done by her despite her knowing fully well that after the announcement of the Award, only correction of arithmetical or clerical errors was permissible under Section 13-A of the Land Acquisition Act, 1894 (for short "the Act"). No other alteration could be made in the Award without prior approval of the Financial Commissioner.

Though, the Enquiry Officer who had been appointed to enquire into the charges, exonerated her in his report dated 2.6.2006, the competent authority recorded a dissent note on 13.3.2009. After duly considering the matter and giving her due opportunity, vide order dated 10.12.2010 (Annexure P-9), major penalty of stoppage of two annual increments with cumulative effect was imposed. The memorial dated 24.1.2011 submitted by her was also rejected on 15.5.2012.

Thereafter, she filed writ petition which was dismissed. Her petition seeking review of that order was also dismissed vide order dated April 8, 2015. Hence, the present appeal.

Sh. Gurminder Singh Ld. Senior Counsel for the appellant has urged that the appellant had been exonerated in the enquiry report. Same was the view of the Chief Secretary who had disagreed with the dissent note recorded by the Financial Commissioner. He argued that the enquiry officer as also the Chief Secretary had rightly come to the conclusion that the entries regarding the type of land as corrected by the appellant were correct as per the revenue record and thus she had not committed any irregularity. It was also held that these changes were in the nature of correction of a clerical error, for which no prior permission of the Financial Commissioner was required. He further argued that the mere fact that on receipt of further applications from the land owners for effecting similar correction, she sought approval of the Financial Commissioner through letter dated 21.07.1994, in response to which she was advised that the land owners, if aggrieved, may make a reference under Section 18 of the Act would not itself be sufficient to brand her earlier action as irregular and improper, because after the clarification, she made no such alteration. He argued that in the note of the Chief Minister Annexure P-7, it had been wrongly noted that despite the aforesaid advice, she had proceeded to change the type of land from Barani to Chahi. He further argued that as a matter of fact, in the reference under Section 18 of the Act, filed by the land owners, the compensation in respect of all types of land was enhanced to ₹4,90,000/- per acre and thus no loss at all was caused to the Government, a fact which was also noted in the enquiry report and the note of the Chief Secretary while exonerating her of the misconduct.

We are not convinced with the aforesaid arguments of the Ld. Counsel.

The core of the charge against the appellant was that after the announcement of the Award, she made changes in the type of land without seeking prior approval of the Financial Commissioner thereby illegally benefiting the landowners and causing loss to the Government.

The changes made were as under:

In the Award the details of the land mentioned was as follows:

Sr.No.	*Type of Land*	*Area (in acres)*	*Rate in ₹ Per acre*
1.	*Chahi*	*49.56*	*59,000/-*
2.	*Nehri*	*16.88*	*3.00 lac*
3.	*Barani*	*22.55*	*1.00 lac*
4.	*Gair Mumkin*	*1.40*	*4.50 lac*

After the alterations the type of land was reflected as under:

Sr.No.	*Type of Land*	*Area in Acres*
1.	*Chahi*	*6.28 acres*
2.	*Nehri*	*75.27 acres*
3.	*Barani*	*7.34 acres*
4.	*Ghair Mumkin*	*1.50 acres*
		90.39 acres

This is not a solitary change. The changes are in respect of the area of all the types of land as find mentioned in the Award. These are extensive changes in respect of the types of land. On the face of it these changes cannot be said to be of the nature of mere correction of clerical errors. The appellant herself in her letter dated 21.07.1994 (Annexure A-3), with reference to an application received from a land owner requesting that his land which was Nehri had been wrongly recorded in the Award as Chahi, forwarded his case to the Financial Commissioner for approval to change the Award after correcting the nature of the land. This letter of the appellant herself, belies her assertion that the changes earlier made by her were merely in the nature of correction of clerical errors and that her act of changing the type of land after the announcement of the Award did not amount to changing of the Award as was the conclusion of the Competent Authority in the note(Annexure P-7). This letter clearly indicates that the appellant herself did not consider these changes to be mere corrections of clerical error permissible under Section 13-A of the Act.

Also the mere fact that later, in the reference under Section 18 of the Act, same compensation was granted for the different types of land and thereby no actual loss may have been caused to the Government cannot in any manner exonerate her from her liability to be proceeded against for disciplinary action for acting contrary to the mandate of the Act.

Accordingly, we find no infirmity in the order of the Ld. Single Judge in dismissing the writ petition and the petition seeking review thereof.

Dismissed. Consequently, the accompanying applications seeking condonation of delay in filing and refiling the appeal are also dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

March 30, 2016
Atul