

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

**RSA No. 1660 of 2016 (O&M)**

**Date of decision: 28.05.2016**

Punjab State Power Corporation Pvt. Ltd.

...Appellant(s)

Versus

Vindo Kumar Sharma

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Ms. Promila Nain, Advocate,  
for the appellant(s).

**JITENDRA CHAUHAN, J.**

This regular second appeal has been filed by the defendant against the judgment and decree dated 20.10.2014, passed by Additional Civil Judge (Senior Division), Jalandhar whereby, the suit filed by the plaintiff was decreed and; judgment and decree dated 02.11.2015 passed by Additional District Judge, Jalandhar, vide which the appeal filed by the defendant-appellant was dismissed.

In brief, the plaintiff filed suit for declaration to the effect that the order dated 08.05.2008 passed by Chief Accounts Officer, Punjab State Electricity Board, Patiala stopping one annual increment without cumulative effect and the order dated 12.03.2009, passed by

the Member Finance/Accounts, Punjab State Electricity Board, dismissing the appeal of the plaintiff are illegal and based on no evidence. Therefore, the same are liable to be set aside. It was pleaded by the plaintiff that the plaintiff was employed as Revenue Accountant in PSEB. While he was posted as Revenue Accountant in the office of Senior Executive Engineer/Operation City Division Kapurthala, he was served with charge-sheet dated 28.03.2006 under Rule 8 of the Punishment & Appeal Regulations 1971 on false frivolous grounds. He submitted his reply. Without holding any enquiry, Chief Accounts Officer, Patiala imposed punishment of stoppage of one annual increment without cumulative effect upon the plaintiff vide order dated 08.05.2008. The plaintiff filed appeal before Member Finance/Accounts PSEB, Patiala but the same was dismissed vide order dated 12.3.2009. He prays that both the orders are liable to be set aside as the same are against the principles of natural justice.

Upon notice, the defendant appeared and filed written statement due admitting the factum of charge-sheet.

After appraisal of the evidence, the learned trial Court decreed the suit vide judgment and decree dated 20.10.2014, holding that comments obtained were not conveyed to the plaintiff. The procedure for inflicting major penalty was started but suddenly the impugned orders were passed as per the procedure of minor penalties.

Once, charge-sheet was issued for imposition of major penalty, the punishing Authority cannot by merely examining the reply to the

charge-sheet, inflict even a minor penalty without holding a complete departmental enquiry.

Feeling dissatisfied, the Punjab State Electricity Board filed an appeal before Additional District Judge, Jalandhar. The appeal was dismissed vide judgment and decree dated 02.11.2015. It was observed by the lower Appellate Court that once the charge-sheet was issued for imposition of major penalty, the Disciplinary Authority cannot by merely examining the reply to the charge-sheet, inflict even a minor penalty without holding a complete departmental enquiry. The lower Appellate Court relied upon the authority of this Court “**Dr. K.G. Tiwari Vs. State of Haryana 2002 (4) SLR 329**”.

The Punjab State Electricity Board, Patiala has filed the instant regular second appeal assailing both the aforesaid judgments and decrees.

On behalf of the appellant, It is contended that the Courts below have erred in decreeing the suit. The suit of the plaintiff was not maintainable as the proper remedy available with the plaintiff was to file an appeal before Employees Grievances Redressal Forum P.S.P.C.L., Patiala.

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

There is a concurrent finding of fact recorded by the Courts below that since the procedure for imposition of major penalty was initiated and charge-sheet was issued, the Disciplinary Authority was

not competent to examine the reply to the charge-sheet and inflict even a minor punishment without holding complete departmental enquiry. The view taken by the Courts below is inconsonance with the judgment passed by this Court in K.G. Tiwari's case(supra). Since the orders dated 08.05.2005 passed by Chief Accounts Officer PSEB and the order dated 12.03.2009 passed by the Appellate Authority(Intra Court) were against the rules, therefore, the plaintiff had every right to seek declaration that the orders were illegal, null and void. There is no misreading and misinterpretation of the evidence. This Court is in complete agreement with the view taken by the Courts below. There is no question of law much less substantial question of law involved in the present regular second appeal. Consequently, the appeal is dismissed in limine.

**28.05.2016**  
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**(JITENDRA CHAUHAN)**  
**JUDGE**