

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.10475 of 2016(O&M)
Date of Decision: 14.12.2017

Rabinderjit Singh

--Petitioner

Versus

Punjab State Power Corporation Ltd.
and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. H.S. Dhindsa, Advocate for the petitioner.

Mr. L.S. Bhullar, Advocate for
Mr. Pankaj Bhardwaj, Advocate for the respondents.

TEJINDER SINGH DHINDSA.J (Oral)

C.M. No.17774 of 2017

Application is allowed as prayed for.

The accompanying appeal (undated) preferred by the petitioner against the order of penalty dated 12.8.2014, is taken on record at Annexure P-6.

Main Case

Vide order dated 12.8.2014 (Annexure P-4), passed by the Chief Engineer, Circle Ludhiana, the petitioner, who was serving on the post of Junior Engineer under the respondent-Corporation was imposed the penalty of forfeiture of two annual increments without future effect. Petitioner having availed of the statutory remedy, the same stands declined in terms of order dated 21.12.2015 (Annexure P-5).

Instant petition is directed against the aforesaid two orders at Annexures P-4 and P-5.

Having heard counsel for the parties at length, this Court is of the considered view that the validity of the order of punishment dated 12.8.2014 (Annexure P-4), passed by the punishing authority need not be examined on merits, at this stage. Such view is being taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

The uncontroverted factual position that departmental proceedings were initiated against the petitioner in the light of a charge sheet dated 24.7.2012 and the following Article of Charge was formulated against the petitioner:-

“As per complaint No.40-42/PS/CE/Enf-2011 the checking was conducted with regard to the meters fixed in the pillar boxes of village Alamgir/Sarin/Chubki/Dulay and the checking was conducted by the Addl. Superintending Engg./Enforcement-1, 2, 3 Ludhiana. During checking it was found that JE Rabinderjeet Singh had changed the meter vide account No.W-13/506 Mter MCO No.72/69182 dated 16.10.11. The said meter was declared as defective by the meter reader and it was found defective in key expression also. This meter was checked by the M.E, Lab. From the checking it was found that electronic circuit was tempered & counter wire was cut and refixed again. From the statement of Rabinderjeet Singh, J.E it is clear that in order to give benefit to consumer, the meter was changed one day before the checking was conducted on 17.10.11 by the Addl. Superintending Engg./Enforcement-I. Hence, Er. Rabinderjeet Singh, J.E is responsible for not seal checking the meter and for not declaring the power theft and for not getting the requisite money charged for the burnt meter.

Beside this, during the enquiry/checking about 1190 connections were checked and during checking 91 cases of power theft were found leading to the fine of Rs.16.95 lacs. During enquiry it was found that Sr. Executive Engg./Sub

Urban Circle Lalton Kalan, Sahin, Sub Division had issued letter for the checking of meters/pillar boxes and with regard to the quality control and tempered/defective meters vide letter No.5 dated 12.1.11 and gang was constructed with regard to pillar boxes at Sarin. The incharge of team was Rabinderjeet Singh. Hence, being incharge of the Gang he is responsible for not checking the power theft. Shri Rabinderjeet Singh, J.E has been guilty of gross irregularities/carelessness/derelection from duty, thereby causing financial loss to Punjab State Power Corporation Ltd.

In case checking had not been conducted by Enforcement Ludhiana, then loss would have occurred to the Punjab State Power Corporation Ltd. for which Rabinderjeet Singh, J.E is fully responsible.”

The reply submitted to the charge sheet having not been found satisfactory, an Inquiry Officer was appointed. Placed on record at Annexure P-2 is the Inquiry Report dated 27.6.2014 and in so far as the present petitioner is concerned, findings were returned in his favour and thereby exonerating him of the charge.

The punishing authority, however, called for comments from the Chief Engineer (Production Circle) and after considering the matter, imposed the penalty upon the petitioner as noticed herein above.

Petitioner preferred a statutory appeal (dated nil) which has been placed on record as Annexure P-6.

Perusal of the appeal would reveal that apart from having raised a number of contentions/submissions, a specific ground has been raised that the punishing authority has differed with the findings of the Inquiry Officer without even recording a dissenting note.

The impugned order passed by the Appellate Authority reveals that the contentions and submissions raised in the appeal have not even been

noticed much less dealt with. The entire reasoning adopted by the Appellate Authority is to the following effect:-

“Appellant Shri Rabinderjit Singh, J.E came present on 11.2.15 in the office of Chief Engineer/Distribution (Central), Ludhiana in relation to the order passed vide memo no.544 dated 12.8.14 for being granted the personal hearing.

During this time, no new facts were presented by the employee and beside this the Chief Engineer has written his comments upholding the punishment given to the employee. Keeping in view the record of the file and comments given by the Chief Engineer, the appeal of the employee is hereby rejected.

In this manner, the appeal filed by the employee against the order passed by Chief Engineer (Distribution) Central Ludhiana vide memo no.544 dated 12.8.14 is hereby rejected.”

The question as regards reasons to be assigned by the Appellate Authority even while affirming the order passed by the punishing authority came up for consideration before the Hon'ble Supreme Court in ***Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney & others, 2009 (5) SLR 512*** and it was observed as under:-

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of [S.N.Mukherjee vs. Union of India](#) reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities.

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an

essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

*No doubt, in **S.N. Mukherjee's** case (supra), it has been observed (vide para 36) that:*

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority."

Perusal of the impugned order dated 21.12.2015 (Annexure P-5), passed by the Appellate Authority would reveal that the same is totally non-speaking and a cryptic order. The Appellate Authority while examining a statutory appeal preferred by the effected employee was obligated to consider the various grounds/submissions raised in the appeal and to deal with such submissions. By applying the dictum laid down in **Chairman, Disciplinary Authority's** case (supra) the impugned order passed by the Appellate Authority, cannot sustain.

For the reasons recorded above, the present writ petition is partly allowed and the order dated 21.12.2015 (Annexure P-5), passed by the Appellate Authority, is set aside. The matter is remanded back to the Appellate Authority to pass an order afresh after taking into consideration all the submissions and contentions raised by the petitioner in the appeal (dated nil) placed on record at Annexure P-6.

Let a final order be passed within a period of three months from the date of receipt of a certified copy of this order.

Petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

14.12.2017

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No