

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 23793 of 2014

Date of Decision: 09.02.2017

SARB DAYAL SINGH

... Petitioner

VS.

***PUNJAB STATE POWER CORPORATION LTD., PATIALA AND
OTHERS***

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Malkeet Singh, Advocate,
for the petitioner.

Mr. Monika Sharma, Advocate,
for Mr. Mukul Aggarwal, Advocate,
for respondent No. 2.

KULDIP SINGH, J. (Oral)

The petitioner by way of this writ petition under Articles 227 of the Constitution of India praying for issuance of writ of certiorari for quashing of the impugned order dated 13.08.2013 (Annexure P-5) passed by the respondent No. 2 vide which penalty of cut of 15% in pension of the petitioner for a period of 5 years has been imposed and order dated 20.10.2014 (Annexure P-6) vide which the appeal filed by the petitioner against the order dated 13.08.2013 (Annexure P-5) has been dismissed by respondent No. 4.

The petitioner who retired on 30.06.2013 from the service of respondent No.1-Punjab State Power Corporation Ltd, Patiala (for short PSPCL), was served with a show cause notice dated 11.03.2013 (Annexure P-4) just before his date of retirement to show cause as to why the charges mentioned in the show cause notice, one of the minor penalty under Regulation 5 Sub-clauses (i) to (iv) alongwith Regulation 8 of the Punjab State Electricity Board Employees Punishment and Appeal Regulation, 1971

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(hereinafter referred as “Regulations 1971”) should not be imposed upon him.

The petitioner accordingly submitted the reply. In the meanwhile, the petitioner retired from services on 30.06.2013. Thereafter, impugned order dated 13.08.2013 (Annexure P-5) was passed whereby a cut of 15% in pension of the petitioner for a period of 5 years was imposed.

In the written statement respondents have justified the passing of the impugned order stating that at the time of passing of the impugned order dated 13.08.2013 (Annexure P-5), the petitioner stood already retired. Therefore, no punishment of stoppage of annual increment could be imposed upon him and accordingly, the said punishment order was passed.

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

Rule 5 of the Regulations, 1971 which governs the services of the petitioner provides for the following minor penalties: -

“Rule 5: *The following penalties may, for good and sufficient reasons, and as hereinafter provided, be imposed on an employee, namely: -*

Minor Penalties

- (i) *censure;*
- (ii) *withholding of his promotions;*
- (iii) *recovery from his pay of the whole or part of any pecuniary loss caused by him to the Board by negligence or breach of orders;*
- (iv) *withholding increments of pay without cumulative effect.”*

It comes out that the cut in the pension is not one of the minor penalties. Though, a show cause notice was issued to the petitioner during his service, but for passing of the order of cut in the pension, the same has to be justified or governed by some Rule. On behalf of the respondents, it is not

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disputed that there is no such Rule in which cut in the pension could be imposed. Minor penalty, as provided in the Rule 5 (iii) only provides for recovery from the pay of the delinquent employee of the whole or part of any pecuniary loss caused by him to the Board by negligence or breach of orders.

The show cause notice (Annexure P-4) shows that the allegations are that while posted as Assistant Engineer, Sub-Division Phillaur and being In-charge, electric supply of Gopal Enclave Colony, G.T. Road, Phillaur, the petitioner has activated the same without getting old supply line shifted. Requisite NOC from the Pollution Control Board was not obtained and further specification of the material used for the said work was not approved by the competent authority but the same was approved at his own level.

In this way, even in the show cause notice, it was not alleged that any pecuniary loss caused to the respondent department. Since, the penalty imposed upon the petitioner is not one of the minor penalties mentioned in the regulation No. 5 on the said Regulations, 1971, therefore, same has to be set aside.

In view of the foregoing discussion, impugned punishment order dated 13.08.2013 (Annexure P-5) followed by order dated 20.10.2014 (Annexure P-6) passed by the appellate authority affirming the said order (Annexure P-5) are hereby quashed. However, the respondents shall always be at liberty to follow the proper procedure subject to Rules applicable to the petitioner, if they so desired.

In view of the above, the petition stands allowed.

February 9, 2017

Suresh Kumar

[KULDIP SINGH]
JUDGE

Whether speaking / reasoned :

✓
Yes / No
✓

Whether Reportable :

Yes / No