

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7858 of 2012

DATE OF DECISION: March 28,2017

Karan Singh

...Petitioner

Versus

Haryana Sugarfed and another

...Respondents

CWP No.11043 of 2012

DATE OF DECISION: March 28,2017

Karan Singh

...Petitioner

Versus

Haryana Sugarfed and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Abhinav Sood, Advocate for
Mr.Vikram Singh, Advocate for the petitioner.
Mr.J.S.Bedi, Additional Advocate General, Haryana.
Mr.P.K.Mutneja, Advocate for respondent No.2.

AJAY TEWARI, J.

These are two writ petitions which are decided by this common
order since the parties are the same and there is similarity in the cause of
action.

While working as Petrol Pump Incharge of respondent No.2-Mill, there was an accusation against the petitioner relating to shortage of stock of diesel and petrol. That was resolved and thereafter there was another allegation of shortage of 12000 litres of diesel. For the second allegation, a preliminary inquiry was ordered and the Enquiry Officer held that the petitioner was negligent and asked him to deposit the amount which he did. In the meantime, the vigilance enquiry had also been ordered and from that inquiry, it was transpired that it was not a case of negligence but a case of outright theft of 12000 litres of diesel. The entry of diesel into the premises of respondent No.2 had been proved, but the same was not entered in the stock register. A regular inquiry was ordered in which the petitioner did not participate. The Board of Administrators of respondent No.2 ordered the reversion of the petitioner from Clerical Grade I to Clerical Grade III. Thereafter two things happened. The petitioner filed an appeal to respondent No.1 and independent thereof, respondent No.1 on coming to the conclusion that the punishment imposed was disproportionately light, issued notice to the petitioner to show cause why it be not enhanced. On a consideration of the reply of the petitioner, the impugned order was passed whereby the matter was remanded back to the Board of Administrators for a fresh look at the punishment order. It is this order which has been challenged.

When this petition came up for hearing, this Court issued notice of motion and passed interim order staying the operation of the impugned order. During the pendency of the petitioner, the petitioner attained the age

of superannuation and thereafter filed the second petition claiming his retiral dues.

At the very outset, learned counsel for the petitioner has accepted that the second petition would only survive if the first petition is allowed. As regards, the first petition, this Court asked learned counsel as to point out the illegality in the impugned order and the only ground given by learned counsel is that one nominee of respondent No.1 is a member of Board of Administrators. As per counsel, since the nominee of respondent No.1 was a member of Board of Administrators, he could not review the order of punishment. The argument is completely flawed. If this was so, no appeal would lie to respondent No.1. By filing an appeal before respondent No.1, the petitioner has cut off his own hands. In any case, an appellate authority does have a right to take a different view than of the disciplinary authority provided it gives opportunity of hearing to the employee. In the present case, the appellate authority has remanded back the matter to the disciplinary authority after hearing the petitioner, No fault can be found with the order.

Consequently, the petition is dismissed. As regards the second petition which relates to the retiral dues that can only be realized to the petitioner after finalization of the disciplinary proceedings.

A copy of this order be placed in the connected case.

March 28,2017
KD

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No