

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

**CWP No. 24327 of 2016
Date of Decision: 09.05.2017**

Upinder Singh Gill

...Petitioner

Versus

**The Punjab State Power Corporation
Limited and others**

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. J. S. Jaidka, Advocate
for the petitioner.

Mr. Bhupesh Dogra, Advocate
for the respondents.

JAISHREE THAKUR, J. (Oral)

The instant writ petition has been filed to challenge the order dated 03.11.2016 (*Annexure P-5*) whereby a cut of 10% in the pension has been imposed upon the petitioner herein for a period of three years.

In brief, the facts are that the petitioner herein, who was working with Punjab State Power Corporation Ltd., came to be issued a show cause notice dated 23.06.2015 under Regulation 10 of the ***Punjab State Electricity Board Employees (Punishments and Appeals) Regulations, 1971***. In response thereto, the petitioner submitted his reply and after considering the same, it was decided to impose a punishment of stoppage of three annual increments without cumulative effect. Aggrieved against the said order of punishment, an appeal was preferred under Regulation 18 of the said Regulations. However, during the pendency of the appeal and before any order could be taken thereon, the impugned order

came to be passed which has been challenged in the instant writ petition.

Learned counsel for the petitioner relies upon a judgment rendered by this Court in ***CWP No. 24724 of 2014*** titled as ***Ashwani Kumar vs. The Punjab State Power Corp. Ltd. and others***, decided on 09.09.2016 to contend that no punishment could have been imposed upon the petitioner without holding a regular enquiry and the order of punishment is vitiated.

Per contra, learned counsel for the respondents-Corporation submits that punishment, that was imposed, was a minor punishment under Regulation 10 and, therefore, no regular enquiry would be necessary and further urges that it is only on account of the fact that the petitioner stood retired from service that the punishment of stoppage of three annual increments was converted into cut of 10% in the pension of the petitioner for a period of three years. This cut was imposed while relying upon memo dated 07.02.2005.

I have heard learned counsel for the parties and have also gone through the pleadings of the case.

Admittedly, a show cause notice was already issued to the petitioner under Regulation 10 and the departmental appeal of the petitioner was pending at the time of his retirement. Any order, that was to be issued to modify the order of punishment, could not have been issued without giving ample opportunity of hearing to the petitioner herein. It was during the pendency of the appeal itself that the order, imposing a cut of 10% in the pension of the petitioner, was passed which, in the absence of a fair hearing, would be violative of the principles of natural justice.

In view of the fact that no hearing was given to the petitioner

while imposing a totally new punishment, the impugned order dated 03.11.2016, imposing a cut of 10% in the pension of the petitioner, is set aside and the matter is remanded back to the Appellate Authority to take a fresh decision in accordance with law. The parties are directed to appear before the Chairman-cum-Managing Director, Punjab State Power Corporation Limited, Patiala on 24.05.2017.

It is expected that the matter shall be considered in its true perspective in accordance with law preferably within a period of three months thereafter.

Writ petition stands disposed of.

May 09, 2017
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No