

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

Civil Writ Petition No.25542 of 2015
Date of Decision: August 04, 2017

The Union Territory of Chandigarh through its Secretary Transport & others
...Petitioners

Versus

Jameet Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Raghav Goel, Advocate for
Mr.Harkesh Manuja, Advocate,
for the petitioners.

Mr.Harish Chhabra, Advocate,
for respondent No.1.

AMIT RAWAL, J.

1. The Union Territory of Chandigarh has challenged the order of the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") dated 24.8.2015 (Annexure P-3) rendered in O.A.No.060/ 00127/2014, whereby applicant-respondent No.1 had sought quashing of the order dated 2.8.2013 (Annexure A-2), vide which he was ordered to be reverted to the post of Conductor from the post of Sub Inspector as per the recommendation of the Committee, on account of currency of the punishment.

2. Mr.Raghav Goel, Advocate for Mr.Harkesh Manuja, learned counsel representing the petitioners submitted that vide order dated

17.7.2012, the applicant-respondent was designated as Sub Inspector by the office of the Director Transport, but at the time of his promotion as Sub Inspector, it came to the notice that the applicant-respondent was not entitled for such designation as vide Order No.2011 dated 15.7.2004, one increment was stopped with cumulative effect and its effect started from 1.6.2012, which remained effective upto 31.5.2013. The aforementioned fact surfaced only after the passing of the order dated 17.7.2012. In fact, as per order dated 23.5.2006, the pay scale of the petitioner was reduced to minimum of time scale for five years, which punishment he was already undergoing. It was further provided that he would not be entitled to earn increments of pay during the period of reduction and the effect of such punishment would be upto 31.5.2012. It was in such circumstances, since the applicant-respondent was already undergoing earlier punishments imposed by the petitioners, therefore, the punishment in terms of order dated 15.7.2004 actually started w.e.f. 1.6.2012 and remained effective upto 31.5.2013, as indicated above. The aforementioned facts were concealed on the part of the dealing Assistant in connivance with the applicant-respondent. The matter was immediately reviewed and put up before the competent authority. On consideration of the aforementioned facts, the applicant-respondent was rightly reverted to the post of Conductor.

3. It was further submitted that the CAT, despite noticing the aforementioned facts had erroneously held that due to non-production of the record, petition filed by the petitioner deserved to be accepted. It requires special notice that the conduct of the applicant-respondent from the very beginning of his joining the service was very casual as he remained absent from work on twenty seven occasions without assigning any reasons, details

of which have been given in the written statement filed before CAT. The proper course for the CAT, in such circumstances was to remand the matter to the department, instead of setting-aside the order of reversion and, thus, urged this Court for quashing of the order under challenge.

4. Per contra, Mr. Harish Chhabra, learned counsel representing respondent No.1 submitted that the order of the CAT is perfectly legal and justified. There is delay of eight years at the behest of the department in implementing the order of penalty dated 15.7.2004, which is not permissible in the eyes of law as it reflects malafides on their part. Moreover, the applicant-respondent was not afforded any opportunity of hearing in the matter. The applicant-respondent had been working in the department since 1980. He further submitted that the applicant-respondent had been singled out whereby he has been reverted, whereas the remaining twenty five Conductors have been working as Sub Inspectors and some of them from time to time have been promoted as Inspectors.

5. It was next contended that the act of the petitioner is arbitrary and had been held to be anti-thesis of equality clause enshrined under Article 14 of the Constitution of India. If at all, the department had to implement the order of penalty, it could be done within one year and having not furnished any cogent explanation, the order of the CAT does not warrant interference.

6. We have heard the learned counsel for the parties and appraised the paper book.

7. The facts noticed above are not in dispute. Admittedly, the factum of currency of punishment as indicated above, i.e., penalty order dated 15.7.2004 and the punishments imposed on the applicant-respondent

from time to time, details of which have been given in the written statement, extracted below, were in vogue:-

1		Two increments stopped without cumulative effect vide office order No.844 dated 24.3.1987 (in fraud case)
2	Placed under suspension vide office order dated 24.10.1991. Reinstated on pending departmental enquiry vide order dated 07.01.1992	One increment stopped without cumulative effect and period of suspension decided as limited to the grant of subsistence allowed only vide order no.1720 dated 17.11.94 (in fraud case)
3		One increment stopped with cumulative effect vide office order No.2951 dated 13.08.2002 (Willful absent case)
4		One increment stopped without cumulative effect vide office order No.5074 dated 09.09.2002 (Willful absent case)
5		One increment stopped without cumulative effect vide office order No.1986 dated 12.05.2003 (Willful absent case)
6	Place under suspension vide office order No.567 dated 14.05.1998. Reinstated on pending departmental enquiry vide order dated 14.07.1998	One increment stopped with cumulative effect and period of suspension decided limited to the grant of subsistence allowance only vide order no.2011 dated 15.07.2004 (in fraud case)
7	Placed under suspension vide office order No.628 dated 09.10.97. Reinstated on pending departmental enquiry vide office No.778 dated 28.11.1997	Two increments stopped without cumulative effect and period of suspension decided as grant of subsistence allowed only vide office order No.2015 dated 15.07.2004 (in fraud case)
8		Two increments stopped with cumulative effect vide office order No.2746 dated 01.04.2005 (In willful absent case)
9		On completion of departmental enquiry in willful absent case w.e.f. 24.10.1998 to 08.04.1999, the applicant was reduced to the minimum of time scale for five years with further order that he will not earn increments of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing his future increment of pay. His willful absent period was also decided as Extra Leave vide office order No.400 dated 23.05.2006.

8. It could not be disputed by the applicant-respondent that Order No.2011 dated 15.7.2004 vide which his one increment had been stopped with cumulative effect from 1.6.2012 remained effective upto 31.5.2013 and Order No.400 dated 23.5.2006, whereby his pay scale was reduced to minimum of time scale for five years, on account of which he could not

have been promoted from the post of Conductor to the post of Sub Inspector. An opportunity of hearing was essential before passing order of reversion against the applicant-respondent. In such circumstances, in our opinion, the CAT should not have set-aside the order of reversion. It was appropriate for the CAT to have remitted the matter back for re-consideration.

9. Resultantly, the order dated 24.8.2015 (Annexure P-3) is set-aside. The Director Transport, Chandigarh Transport Undertaking, Industrial Area Phase-1, Chandigarh is directed to decide the matter afresh by passing a speaking order after affording opportunity of hearing to the applicant-respondent considering all the materials on record, within a period of three months from the date of receipt of certified copy of this order.

Writ petition stands disposed of.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**August 04, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No