

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1311 of 2016 (O&M)

Date of Decision: 20.04.2017

Haryana Power Generation Corporation Ltd. & Anr. ... Appellants

VS.

Versa Rani

... Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Mr. Padamkant Dwivedi, Advocate for the appellants

Respondent in person

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal is directed against the order dated 08.04.2016 whereby learned Single Judge allowed the writ petition and has set aside the order of punishment of stoppage of one increment without cumulative effect with a further direction that the suspension period of the respondent w.e.f. 19.07.2005 to 08.03.2007 be treated as period spent on duty.

(2) The respondent who is working as Lower Division Clerk is present in person. She states that due to her poor financial condition, she is unable to engage the counsel.

(3) Heard learned counsel for the appellants and the respondent in person.

(4) The respondent was charge-sheeted on account of her alleged misbehaviour with the Managing Director of the appellant-Corporation. The authorities acted in so much haste that she was dismissed from service on 20.07.2005 only on the basis of preliminary enquiry. The order of dismissal was set aside by this Court though with liberty to proceed against her in accordance with law. The respondent was reinstated on 09.03.2007. The

appellant-Corporation thereafter appointed an enquiry officer on 27.02.2008.

The enquiry was held in which the respondent was not found guilty as the witnesses of the alleged incident did not support the allegation.

(5) The authorities nevertheless continued to exhibit their bias against the respondent and with the aid of a note of disagreement, punishment of stoppage of one increment with cumulative effect was imposed on her on 06.08.2010.

(6) The respondent filed departmental appeal which was allowed in part to the extent that the punishment of stoppage of one increment with cumulative effect was converted into stoppage of one increment without cumulative effect.

(7) It is pertinent to mention here that for the same incidence of alleged misbehaviour dated 19.07.2005, a criminal case was also got registered against the respondent in which she was acquitted on 12.09.2013.

(8) Learned Single Judge in this backdrop, having regard to the fact that the enquiry officer held the charges not proved and the respondent stood acquitted in the criminal trial also vide the order under appeal has set aside the order of punishment and ordered regularization of suspension period.

(9) Learned counsel for the appellants is right in contending that the departmental action was independent of the criminal case as the punishment was awarded on the basis of domestic enquiry. The standards of proof as applicable in a criminal case are different and of higher degree as compared to those applicable in a departmental enquiry. He thus contends that learned Single Judge ought not to have interfered with the order of punishment.

(10) We have considered the submission which may be legally correct. However, this Court cannot be oblivious of the fact that in the domestic enquiry also the charges were not proved and the respondent was held guilty only by

writing a note of disagreement. In the totality of the circumstances, the punishment of stoppage of increment is proportionately on higher side and the ends of justice would have been adequately met with by imposing minor punishment like a 'recorded warning'.

(11) Moreover, the authorities themselves found it a fit case for imposition of minor punishment (as the stoppage of one increment without cumulative effect is a minor punishment). The order of learned Single Judge directing the authorities to treat the suspension period as period spent on duty also, therefore, calls for no interference. In the light of the above discussion, the order of learned Single Judge is modified to the extent that the punishment of stoppage of one increment without cumulative effect is substituted with that of 'recorded warning'.

(12) The appeal is allowed to the extent above.

(Surya Kant)
Judge

20.04.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No