

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: November 03, 2017

+ **W.P. (C) 1201/2001**

M.S. GEHLOT Petitioner
Through: Mr. Rajesh Banati and Mr. Vikram
Singh, Advocates with petitioner in person
versus

BSES RAJDHANI POWER LIMITED Respondent
Through: Mr. Sandeep Prabhakar and Mr. V.
Mehta, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Petitioner, a Meter Reader with respondent, was charged of conniving with one *Umed Singh* whose premises, he had checked in February, March and April, 1994, but had not reported about large scale theft of electricity which was taking place at the factory premises of said *Umed Singh* in Peeragarhi, Delhi. In the departmental inquiry, petitioner was exonerated by Inquiry Officer, who in order of 13th May, 1999 (*Annexure P-5*) had accepted petitioner's stand that there was no theft of electricity at the time of petitioner's visits to premises of *Umed Singh* and so, no question of sending any report or intimation of theft to higher authorities was called for.
2. The Disciplinary Authority vide its order of 4th February, 2000 (*Annexure P-9*) had disagreed with the Inquiry Officer and came to the

conclusion that penalty of removal from service is called for, but had imposed the penalty of reduction of petitioner's pay scale to minimum for a period of five years with stipulation that he will not earn any increments during the period of reduction and after the expiry of period of five years, it will have the impact of postponing the future increments of pay. Petitioner's departmental appeal was dismissed vide order of 31st May, 2000 (*Annexure P-11*).

3. The challenge to impugned order (*Annexure P-11*) by petitioner's counsel is on the ground that the reasoning of Inquiry Officer has not been considered by Appellate Authority, which renders impugned order (*Annexure P-11*) perverse and so, it needs to be set aside. It is submitted by petitioner's counsel that when petitioner had inspected the premises of *Umed Singh*, there was only one electric meter, which was visible and whatever reading it had disclosed, the same was reflected by petitioner and since there was no theft of electricity, therefore, there was no question of petitioner recommending lodging of FIR against *Umed Singh*. Reliance is placed by petitioner's counsel upon Joint Inspection Report of 13th July, 1994 (*Annexure P-1*), which is the basis of the charge against petitioner, to submit that the other meter discovered by the Joint Inspection Team was inside the room and in normal course, petitioner could not have had access to it and so, the charge against petitioner is perverse on the face of it and thus, impugned order deserves to be set aside, with all consequential benefits.

4. On the other hand, learned counsel for respondent supports impugned order and relies upon Supreme Court's decision in *The High Court of Judicature at Bombay v. Shashikant S. Patil and Another*, AIR

2000 SC 22 to submit that the scope of interference under Article 226 of *the Constitution of India* is limited to the extent of examining as to whether principles of natural justice have been violated and to interfere only when the conclusion of the departmental authorities is found to be wholly arbitrary or capricious from viewpoint of a reasonable person. It is asserted by respondent's counsel that the adequacy or reliability of the evidence in departmental proceedings cannot be the subject matter of challenge in this petition. Thus, it is submitted that impugned order does not suffer from any infirmity and so, this petition deserves to be dismissed.

5. Upon hearing and on perusal of impugned order, material on record and the decision cited, I find that in disciplinary matters, this Court is not required to go into the adequacy or reliability of evidence. All that is required to be seen is whether inquiry has been conducted in consonance with the principles of natural justice and that the inquiry proceedings on the face of it are not arbitrary and capricious and this has to be viewed from the angle of a reasonable person. On doing so, this Court finds that the Inquiry Officer in his report has simply noted the stand of petitioner of there being no theft of electricity at the time of his visit, but has not given any reasoning and had simply jumped to the conclusion that the charge levelled against petitioner is not proved.

6. The Disciplinary Authority in its order (*Annexure-9*) has applied its mind to the facts of the instant case and while taking a lenient view, has imposed a penalty of reduction to a minimum pay scale for a period of five years and the appellate authority vide impugned order has duly considered the report of 13th July, 1994 (*Annexure P-1*) of Joint

Inspection Team and has come to the conclusion that a genuine DVB meter reflects a marginal connected load, whereas the major part of connected load was being consumed by installation of a duplicate meter and that the DVB service cable was also found to be replaced with a single core copper lead. To say the least, the connivance of petitioner with *Umed Singh*, whose premises petitioner had inspected on three occasions i.e. in February, March and April, 1994, is quite probable in view of the Joint Inspection Report (*Annexure P-1*), which has been duly taken into consideration by the appellate authority.

7. Petitioner's plea that he had no access to the rooms inside the factory premises of above-named *Umed Singh* cannot be accepted on the face of it, because petitioner being a Meter Reader cannot possible accept that factory premises in question could run on such marginal connected load.

8. Viewed from any angle, I find that impugned order is neither in violation of principles of natural justice nor is vitiated by any arbitrariness or perverseness. Infact, no case for interference by this Court in exercise of power of judicial review is made out upon applying the yardstick of preponderance of probability. Hence, this petition is dismissed while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

NOVEMBER 03, 2017

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