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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14124-2015
Date of Decision : November 17 **, 2018**

Chander Mohan

.... Petitioner.

Versus

Punjab State Power Corporation
and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Manish Soni, Advocate
for the petitioner.

Mr. Puneet Bhandari, Advocate,
for the respondents.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash order dated 2.8.2011 (Annexure P/4) whereby punishment of imposition of 10% cut on the pension for a period of three years of the petitioner has been ordered and the order dated 25.03.2015 (Annexure P/8), passed by the Appellate Authority where by appeal of the petitioner was rejected .

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was employee of respondent-Corporation, i.e., Punjab State Power Corporation Limited, Patiala and while working as Junior

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Engineer in the respondent-Corporation, the petitioner was posted at Sub Division Office, Lambra, Jalandhar. During that time, one complaint dated 23.09.2009 was filed by Jaspal Singh Kohli to the Executive Engineer (Xen), PSEB, Model Town, Jalandhar with the allegation that meter No. 16705 bearing consumer No. KK/37/1266 issued for Plot No. 231B has been installed on Plot No. 253 and 254 of Shere Punjab Cooperative Society, Bombay Nagar, Jalandhar. On the basis of said complaint, a charge sheet was issued to the petitioner on 23.11.2010 and enquiry was conducted by Additional Superintendent Engineer/Enforcement, Jalandhar and Assistant Executive Engineer. It was found during the enquiry that consumer connection No. KK 37/1266 applied for by Jaswinder Singh on 18.5.2009 at Plot No. 231B, Bombay Nagar, was installed outside Plot No. 254. Similarly, consumer connection No. 37/1263 which has been issued in the name of Smt. Jasbir Kaur was applied for by her on 14.05.2009 at Plot No. 231, Bombay Nagar has wrongly been installed on Plot No. 230A.

3. The petitioner had filed detailed reply on 22.12.2010 to the charge sheet and thereafter, comments of the Sub Divisional Officer, Lambra and Additional Superintendent Engineer, Lambara on the reply submitted by the petitioner were obtained and they specifically agreed with the reply submitted by the petitioner and concluded that the petitioner is totally innocent and the allegations levelled against him did not stand prove. However, without considering all these facts, the respondents passed the impugned order thereby imposing penalty of 10% cut in the pension and the same is liable to be set-aside.

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4. In the reply filed by the respondent, plea has been taken that the charge sheet was issued to the petitioner on 23.11.2010 (Annexure P/1) and reply was filed by the petitioner. The petitioner had made a report to the effect that there was no fitting at the site, therefore, connection was not issued. The petitioner is liable for passing wrong test report, installation of electricity connection at wrong place and non-issuance of NOC to the Sher-e-Punjab Co-operative Housing Building Society. However, the respondents contended that the writ petition is liable to be dismissed as the petitioner had acted with *mala fide* intention and his connivance had been proved. Therefore, the order dated 2.8.2011 was passed for making cut to the extent of 10% in the pension of the petitioner for three years. The act of the petitioner was in violation of instructions issued by the respondent-Corporation. More so, cut of 10% in the pension is wholly proportionate to the misdeeds done of the petitioner and the present writ petition is liable to be dismissed.

5. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the facts are not disputed to the extent that charge sheet was issued to the petitioner on 23.11.2010 (Annexure P/1) and reply was filed by the petitioner thereto on 22.12.2010. Thereafter, comments of Sub Divisional Officer, Lambra and Additional Superintendent Engineer, Lambara were obtained, which were to the following effect:-

"**Comments of Additional Superintendent Engineer**

The under signed has carefully gone through the charge sheet issued to the employee, reply submitted by the

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employee and the comments given by the Sub. Divisional Office on the reply. As per the comments of Sub. Divisional Officer the allegations of Irregularities/ negligence's leveled against the employee are wrong as the employee in his reply has submitted that neither the Shere Punjab Cooperative House Building Society has ever submitted any map in the office nor the societies has fixed any board in the colony, from where the plot number can be identified. The board has not issued any instructions for taking NOC while releasing the general connections to the society. Further the allegations leveled against the employee that while issuing connection to the consumer no indemnity bond was taken, regarding this also board has not issued any instructions. As per the undersigned indemnity bond is to be taken in those cases where someone has already made a complaint to the concerned office regarding issuance of connection on particular Plot/ Building. Except this it is duty of revenue department as to whether NOC or indemnity bond is to be taken from the society and in this way the allegations leveled against the employee are totally wrong and the undersigned does not agree with that. As per the comments of the SDO Office the employee has tried to comply with the TDCO KK 37/ 1263 but the concerned consumer has shown the copy of stay order. In this way the allegations against the employee does not stand prove. Otherwise also the employee has retired from the board on 31.12.2010 so, on the perusal of reply submitted by employee and comments given upon that by the concerned Sub. Divisional Officer it is concluded that the employee is innocent and the allegations levelled against him does not stand proved. Therefore it is requested to discharge the employee.

Sd/- Addl. Superintendent Engineer”

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6. The matter in controversy was before this Court in an earlier writ petition filed by the petitioner bearing CWP-26865-2014, **Chander Mohan Vs. Punjab State Power Corporation Limited and others,** and this Court on 24.12.2014 passed the following order :-

> " The Appellate Authority shall pass a detailed order while deciding the appeal, taking into consideration the reply filed by the petitioner to the charge-sheet, as also the comments of the Additional Superintendent Engineer, on the charges levelled against the petitioner, in view of the fact that the punishing authority has given no reason whatsoever before imposing a cut of 10% on the pension of the petitioner."

7. Still, the Appellate Authority passed the same order without taking into consideration the reply filed by the petitioner to the charge sheet and the comments of Additional Superintendent Engineer, Lambara on the allegations levelled against the petitioner.

8. In the light of that, there is no dispute on the fact that the petitioner herein had filed detailed reply thereby denying his involvement completely or there being any negligence or violation of instructions issued by respondent-Corporation on his part. More so, the matter in controversy should have been set at rest after obtaining the comments of Sub Divisional Officer, Lambra and the report submitted by Additional Superintendent Engineer, as extracted above. If that was the report made by Additional Superintendent Engineer, Lambara, there was absolutely no reason justifying the cut of 10% in the pension of the petitioner for three years as a matter of punishment and the impugned orders dated 2.8.2011 (Annexure P/4) and 25.03.2015 (Annexure P/8) are liable to be set-aside

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and the same are hereby set-aside.

9 Resultantly, the present writ petition is allowed and the impugned orders dated 2.8.2011 (Annexure P/4) and 25.3.2015 (Annexure P/8) are hereby set-aside.

(SHEKHER DHAWAN)
JUDGE

November 17, 2018.
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Whether speaking/reasoned? : Yes
Whether reportable? : Yes

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