

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

(212)

CWP-19484-2015

Date of Decision: November 22, 2018

Surinder Kumar Sharma

..Petitioner

Versus

Uttar Haryana Bijlee Vitran Nigam & others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. N.S. Behgal, Advocate, for the petitioner.

Mr. Hitesh Pandit, Advocate, for respondents No. 1 to 5.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the petitioner is challenging the order dated 20.03.2014 by which recovery of a sum of Rs.15,16,325/- has been ordered to be recovered from the petitioner on the ground that the petitioner has not given back the items which were entrusted to the petitioner and the said items have not been accounted for even upto now. The petitioner is also challenging the charge sheet dated 22.03.2014 in the present case.

Notice of the present petition was given to the respondents as to how, a recovery of Rs.15,16,325/- has been ordered and as to whether, the rules of natural justice were observed before effecting the recoveries.

Learned counsel for the respondents candid enough to admit that before passing an order dated 20.03.2014, the petitioner was not served with any show cause notice. He further contended that the petitioner was asked to give the details of the items which have not been accounted for but despite various letters, he never associated with the department. The recovery has been imposed upon the petitioner for the items which have not

been accounted for which were entrusted to him.

In respect of the prayer made for setting aside the charge-sheet dated 22.03.2014, the respondents have stated that the said charge-sheet has already been enquired into and an order of punishment has also been passed and four annual increments were stopped and have been recovered from the pensionary benefits of the petitioner. Therefore, when the present petition was filed, the charge sheet already stood decided by the competent authority and even the punishment had also been imposed. Further, the order of punishment is an appealable order and petitioner can avail his remedy by filing appropriate appeal.

I have heard learned counsel for the parties.

In respect of the prayer made by the petitioner that the order of recovery dated 20.03.2014 has been passed without observing the rules of natural justice and without issuing any charge sheet, has a merit. It is a well settled principle of law that no order prejudicial to an employee can be passed without serving a charge sheet or observing the rules of natural justice i.e. by giving him show cause notice for the proposed action. In the present case, once the respondents have admitted that the order of recovery dated 20.03.2014 was passed without observing the rules of natural justice, the order of recovery is liable to be set aside on this ground alone. In this regard reliance can be placed on the judgment of this Court in **S.S. Arya Vs. Uttar Haryana Bijli Vitran Nigam, Panchkula and others, 2009 (8) SLR 53.**

In respect of the prayer of the petitioner for setting aside the charge sheet dated 22.03.2014, it is an admitted fact that when the petitioner approached this Court in the year 2015, the charge-sheet has already been

taken to its logical end and even the order of punishment was passed when the petitioner filed the present writ petition.

By order dated 27.10.2014, a punishment of stoppage of four increments was imposed upon the petitioner, therefore, once the charge sheet has already been taken to a logical end before filing of the writ petition, the prayer of the petitioner for setting aside the charge sheet cannot be accepted.

In respect of the prayer for setting aside the order of punishment dated 27.10.2014, counsel for the respondents states that said order is an appealable order and in case the petitioner files an appeal even now, the same will be entertained and will be decided.

In view of this, counsel for the petitioner prays for liberty to file an appeal against the order dated 27.10.2014.

In view of the above, the order dated 20.03.2014 (Annexure P-1) is set aside with liberty to the respondents to proceed against the petitioner afresh after observing rules of natural justice by following the proper procedure as envisaged under law.

The writ petition is disposed of, in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

November 22, 2018
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No