

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 24329 of 2014

Date of decision : 06.08.2018

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Rajbir Saroha

.....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and
others

.....Respondents

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BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

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RITU BAHRI, J.

The petitioner is seeking writ of certiorari for quashing the order dated 31.5.2012 (Annexure P-6), whereby appeal of the petitioner filed against office order dated 30.6.2010 (Annexure P-4) imposing the punishment of stoppage of four annual increments without cumulative effect was dismissed being time barred.

The petitioner was working as SDO in Uttar Haryana Bijli Vitran Nigam Limited (hereinafter referred to as 'the UHBVNL'), Bahu. His headquarter was fixed in the office of CE/OP, UHBVN, Rohtak, where he was supposed to mark his attendance. He was placed under suspension vide order dated 13.11.2009 (Annexure P-1) issued by the Under Secretary, UHBVN, Panchkula. The department issued a show cause notice/charge sheet (Annexure P-2) to the petitioner, wherein it was proposed to initiate disciplinary proceedings against the petitioner under regulation 8 read with regular 4 HSEB Employees Regulation 1990, duly adopted by the Nigam on

the ground that while remaining posted as SDO(OP) S/Divn., UHBVN, Bahu during the period from 03/09 to 11/09, he did not maintain the headquarter properly and remained absent from the office.

As per the reply dated 10.02.2010 (Annexure P-3), the petitioner denied the allegation levelled by the department with regard to not maintaining the headquarter properly. It was stated therein that he was staying at Bahu and attached rent receipts w.e.f 10.3.2009 to 17.11.2009 to show that he maintained headquarter at Bahu. With regard to the second allegation that the petitioner remained absent from the duty, it is stated in the reply that in the evening of 7.6.2009, he received a call from his home that his wife, who was suffering from cancer and getting treatment from PGI, Rohtak was not feeling well. The petitioner apprised this fact to the XEN (OP) Divn., Beri and requested him to allow him to visit Sonapat to see his wife and he also made a request to the XEN that the petitioner will not be in a position to attend the office w.e.f 8.6.2009 to 9.6.2009. The XEN allowed the petitioner to go on leave and thereafter he left the Head quarter. His regular leave was sanctioned thereafter. Subsequently, the CAO/Pay & Accounts UHBVN, Panchkula deducted the two days salary of the petitioner. With regard to the second allegation, he has stated that segregation of the feeders was being carried out with due devotion and almost about 80% work was got completed for which M/s Duhan Electric works had been paid three successive payments. Department passed an office order dated 30.6.2010 (Annexure P-4) by which punishment of stoppage of four increments without cumulative effect has been imposed against the petitioner. The petitioner filed an appeal dated 13.2.2012 (Annexure P-5) against the punishment imposed by the department. It was

rejected vide order dated 31.5.2012 (Annexure P-6) on the ground that the appeal filed by the petitioner is time barred. The petitioner filed an appeal under RTI Act, 2005 for seeking an information with regard to the punishment order dated 30.6.2010. The information has been supplied by the Chief Engineer (OP), Panchkula vide letter dated 1.4.2014 (Annexure P-7), in which it is stated that after suspension his Head Office was fixed at Panchkula, where he had to mark his attendance. It is possible that the office order had been received by him on his own. Thereafter the petitioner made representations (Annexures P-8 to P-9) stating that the impugned order was never received/acknowledged by the petitioner and hence he could not file appeal within a period of 60 days to the competent authority to challenge the order. A further information has been received by him under RTI on 20.6.2014 (Annexure P-10). As per letter dated 20.6.2014 (Annexure P-10), copy of order dated 30.6.2010 was received by him on 1.7.2010.

Counsel for the petitioner has argued that the order of punishment 30-6-2010 even as per the letter dated 20.6.2014 (Annexure P-10) was never received by him on 1.7.2010 in the office itself as if he had received the said order, he would have put in his signatures. On this short ground itself, the matter should be remanded back to the appellate authority to consider the appeal of the petitioner on merit and pass a speaking order .

Counsel for the State has referred to the various explanations (Annexures R-1 colly.) which were issued to the petitioner for non submission of complete information of the monthly accounts, absence from duty etc. The petitioner did not maintain the accounts properly and without information had left the headquarter. A show cause notice had been issued

in this background. The admit card of petitioner's wife of cancer is of 2005 and he had remained absence from duty from 8.6.2009 to 9.6.2009. XEN OP Division, UHBVN, Beri reported this fact to the Superintending Engineer 'OP' Circle, UHBVN, Jhajjar (Annexure R-2). The Nigam had suffered heavy losses about the segregation of Agricultural Power and Domestic Supply Feeders and the punishment order dated 30.6.2010 (Annexure P-4) has been rightly passed. He further contended that the appellate authority has rightly dismissed the appeal being time barred. He has further argued that order dated 30.6.2010 was supplied by Local Delivery Dak Arrangement in the office of Chief Engineer (OP), UHBVN, Panchkula through peon book (Annexure R-4). After suspension, his head quarter was fixed at CE (OP), UHBVN, Panchkula and thereafter he was reinstated on 9.7.2010 and the fact that he was present at the office of Chief Engineer, UHBVN, Panchkula w.e.f 21.6.2010 to 8.7.2010 is reflected in the attendance register (Annexure R-5) which shows that he was present in the office on 1.7.2010.

After hearing counsel for the parties, the short question for consideration in this appeal is that whether the punishment order 30.6.2010 (Annexure P-4) was received by the petitioner on 1.7.2010 or not. The Court has the attendance register of the Department which shows that the petitioner Mr. Rajbir Saroha was present on 1.7.2010 in the office. Hence, his presence in the office during suspension on 1.7.2010 is no more in doubt. Further perusal of the Dairy Est. II which is w.e.f 24.6.2010 to 14.9.2010 shows that on 1.7.2010, letter dated 30.6.2010 (Annexure P-4) was delivered through the Peon book at entry no. 5979. The order dated 30.6.2010 (Anneuxre P-4) is carrying the Office order No.125/Conf-2794

and this number is mentioned against entry no.5979 of the Peon Book. Once the number of the order dated 30.6.2010 (Annexure P-4) is reflected in the Peon Register, its service is no longer in dispute. A perusal of letter dated 5.6.2014 (Annexure R-3) shows that the petitioner is seeking the photocopy of acknowledgment of office order dated 30.6.2010 (Annexure P-4) which as per the application (Annexure R-3) was not in his knowledge. However, filing of an appeal against the said order in February 2012, proves that he already had the knowledge about the impugned order. After receiving the punishment order, he had filed an appeal after gap of 18 months in February 2012 which is hopelessly time barred. A perusal of the attendance register and peon book of the Department also shows that he was on duty when this order was supplied to him. After filing the appeal in February 2012 and dismissal of the same vide impugned order dated 31.5.2012 (Annexure P-6), the present writ petition was filed by the petitioner in the year 2014. There is no explanation as to why he kept mum after dismissal of the appeal in 2012 till 2014, challenging the same. Hence getting information under the RTI in itself would not be a ground to interfere in the impugned order.

In view of all that has been discussed above, writ petition is dismissed.

06.08.2018

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No