

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.5734 of 2017

Date of Decision: 03.12.2018

Baldev Singh

.....Petitioner

Versus

Punjab State Power Corporation Ltd. & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. H.S. Saini, Advocate
for the petitioner.

Mr. Piyush Khanna, Advocate
for respondents No. 1 to 4.

TEJINDER SINGH DHINDSA J.(ORAL)

Petitioner, Baldev Singh while serving as Upper Division Clerk under the Punjab State Power Corporation Limited, was proceeded against in a departmental enquiry and which culminated in passing of an order dated 30.09.2014 (Annexure P-5) imposing upon him a major penalty of stoppage of three annual increments with future effect. Petitioner preferred a statutory appeal against the order of punishment and the same has also been dismissed vide order dated 30.06.2016 (Annexure P-9).

The instant writ petition has been filed assailing the afore-noticed two orders dated 30.09.2014 (Annexure P-5) and the order passed by the Appellate Authority dated 30.06.2016 (Annexure P-9).

Having heard learned counsel for the parties at length, this Court is of the considered view that the legality of the order dated 30.09.2014 passed by the Disciplinary Authority, imposing the major penalty of stoppage of three annual increments with future effect need not be gone into at this stage. Such view is being taken for the reason that the

facts of the present case make out a case for remand to the Appellate Authority for re-consideration.

The admitted position of fact is that departmental proceedings were initiated against the petitioner by framing the following articles of charge:-

The following mistakes/omissions/irregularities were committed by him (Sh. Baldev Singh U.D.C.) during his posting at Sub Division, Dera Baba Nanak.

When he (Sh. Baldev Singh U.D.C.) was posted at Sub Division, Dera Baba Nanak then during his posting one Sh. Jagdip Singh, Nambardar, Village Mulowali has made a complaint regarding grant of tubewell connection to Sh. Gurdip Singh, Village Mulowali under ex-serviceman quota by wrong means and at wrong place, the enquiry of which was conducted by Additional Superintending Engineer Technical Enquiry-1 Amritsar and it was found that the complaint was found to be true and the this fact came to the light that with the connivance of officials/officers of the department, tubewell connection had been released illegally against the rules by tampering with the record and by changing the place. During this enquiry he (Sh. Baldev Singh U.D.C.) being Consumer Clerk was found to connived for issuance of this illegal connection and he was found directly guilty of tampering/misplacing/changing of records because as Consumer Clerk, it is his sole responsibility to maintain the files and the competent authority has ordered to issue charge sheet to him.

Due to above mistakes/omissions/irregularities committed by him, it attracts disciplinary action against him (Sh.

Baldev Singh, Upper Division Clerk) under Regulation 5 V to IX) of Punjab State Power Corporation Ltd. (Punishment and Appeal) Regulations 1971 read with Regulation-8.

Such departmental proceedings have finally culminated in the passing of the order of stoppage of three annual increments with future effect vide order dated 30.09.2014 (Annexure P-5). The petitioner concededly filed an appeal dated 03.01.2015 followed by a supplementary appeal dated 06.01.2015 before the Chairman-cum-Managing Director of Punjab State Power Corporation Limited, Patiala.

Perusal of the appeal would reveal that a number of contentions and grounds had been raised on the merits of the controversy.

The appeal preferred by the petitioner has been dealt with and rejected in the following terms:-

The Committee of Whole Time Directors after considering the details given in the agenda passed the following resolution:-

“RESOLVED THAT considering the charges leveled, view of controlling officers and magnitude of punishment awarded, appeal of the official against office order No.705 dated 30.09.2014 and view of Director Distribution given after personal hearing, the Committee of Whole Time Directors found no merit in the appeal as Sh. Baldev Singh U.D.C. (EID 256764) is guilty of release of wrong connection at wrong place under Ex- serviceman Quota via tempered record and as such his appeal against order No.705 dated 30.09.2014 is hereby rejected.”

Therefore, P.S.P.C.L. issues orders of rejecting the appeal of Sh. Baldev Singh U.D.C. filed against office order No.705

dated 30.09.2014.

Suffice it to observe that the order passed by the Appellate Authority dated 30.06.2016 at Annexure P-9 is a cryptic non-speaking order.

The question as regards reasons to be assigned by the Appellate Authority even while affirming an order passed by the Disciplinary Authority came up for consideration before the Apex Court in ***Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney & others, 2009 (5) SLR 512*** and it was observed as under:-

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

*9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of **S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594**, is that people must have confidence in the judicial or quasi-judicial authorities.*

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

*No doubt, in **S.N. Mukherjee's case (supra)**, it has been observed (vide para 36) that:*

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.”

Perusal of the impugned order dated 30.06.2016 (Annexure P-9) passed by the Appellate Authority would clearly reveal that the submissions/grounds raised by the petitioner in the appeal have not even been adverted to much less dealt with. The impugned order passed by the Appellate Authority as such cannot sustain.

For the reasons recorded above, the present writ petition is partly allowed and the order dated 30.06.2016 (Annexure P-9) is set aside. The matter is remanded back for consideration afresh at the hands of the Appellate Authority and after taking into account all the submissions and contentions raised by the petitioner in the appeal/supplementary appeal dated 03/06.01.2015. Let the final order upon re-consideration be passed within a period of two months from today after affording to the petitioner an opportunity of personal hearing.

Instant writ petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

December 03, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No