

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

**CWP No.6145 of 2018 (O&M)
Date of Decision : 05.04.2018**

Balwant Singh

.....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Puneet Gupta, Advocate for the petitioner.
Mr. S.S.Narula, Advocate for the respondents.

ARUN PALLI, J. (Oral)

What has been assailed is the letter dated 1.3.2018 (Annexure P-14), issued with the approval of Chairman-cum-Managing Director (respondent No.3), vide which, the petitioner is required to file objections to the inquiry report.

The facts that are required to be noticed are limited.

The petitioner is employed as Chief Engineer (under Suspension) with Dakshin Haryana Bijli Vitran Nigam (DHBVN). Owing to the serious allegations of corruption, he was charge-sheeted and a disciplinary inquiry was initiated against him. He was found guilty by the Inquiry Officer. He was served upon a show cause notice dated 6.1.2018 (Annexure P-6), vide which, a punishment of dismissal from service was proposed, and was also furnished with a copy of the inquiry report dated 29.12.2017 (Annexure P-7). He questioned the validity of the show cause

notice (Annexure P-6), vide CWP No.1140 of 2018, primarily on the ground that conditions of service of the Chief Engineer are governed by the “Punjab State Electricity Board Service of the Engineers (Electrical) Recruitment Regulations, 1965”, which show that the punishing authority for any penalty (minor or major) of a Chief Engineer is the Board. Whereas, the show cause notice was issued by the Chairman-cum-Managing Director (respondent No.3), who lacked jurisdiction and authority to proceed against the petitioner. However, vide order dated 19.01.2018 (Annexure P-8), the said petition was dismissed, for, this Court was of the view that whatever be the grievance of the petitioner he could still file a suitable response to the show cause notice, and even raise a question as regards the very competence/authority of the Managing Director (respondent No.3): **“Be that as it may, the fact remains that the petitioner has been granted 15 days’ time to respond to the show cause notice and the said period expires on 23.1.2018. Whatever be the cause or grievance of the petitioner, rather than filing this petition, in the first instance, he ought to have filed a suitable/appropriate response to the show cause notice expressing his view point. Thus, in the matter of this nature, this Court is dissuaded to interfere, at this stage. No interference is warranted in exercise of extra-ordinary jurisdiction under Article 226 of the Constitution of India. The petition is accordingly dismissed.**

However, if the petitioner chooses to file reply to the show cause notice within the stipulated period, this Court is sanguine that

the same shall be considered and dealt with appropriately and in accordance with law.”

Resultantly, the petitioner filed reply dated 22.01.2018 (Annexure P-9), to the show cause notice. And also filed objections, to the inquiry report, that were submitted to the Board of Directors (respondent No.2). But, vide letter dated 12.02.2018 (Annexure P-11), respondent No.3, withdrew the show cause notice dated 6.1.2018 (Annexure P-6), and rather required the petitioner to file objections to the inquiry report, ostensibly, for, before issuance of a show cause notice (Annexure P-6), the petitioner was not afforded any opportunity to file objections to the report furnished by the Inquiry Officer. Once again, vide letter dated 22.02.2018 (Annexure P-13), the petitioner questioned the authority of respondent No.3, to issue the latter dated 12.02.2018 (Annexure P-11). And, in response, vide impugned letter dated 1.3.2018 (Annexure P-14), respondent No.3, again, advised the petitioner to file objections, and asserted that respondent No.3, was competent to inflict major/minor punishment to the Officers in the rank of XEN and above. Which is why, as indicated above, the petitioner is again, before this Court.

I have heard learned counsel for the parties and perused the records.

On a consideration of the matter in issue, the irresistible conclusion one could reach is; that there is no decisive difference when the petitioner had earlier approached this Court, assailing the show cause notice (Annexure P-6) and the situation at hands now. Ex facie, post passing of

the order dated 19.01.2018, by this Court, the petitioner has furnished his response to the show cause notice, and has also raised an issue as regards the jurisdiction and authority of the Chairman-cum-Managing Director (respondent No.3), to proceed against him, for, the disciplinary authority in his case was the Board of Directors (respondent No.2). Though, subsequently, as indicated above, the show cause notice dated 6.1.2018, paled into insignificance. So, even if, vide impugned letter, the petitioner is now asked to file objections to the inquiry report, respondent No.3 would still have to deal with the issue/objection raised by the petitioner as regards his authority to intervene in the matter. Therefore, under the rules governing the service conditions of the petitioner, whether the disciplinary authority is the Board of Directors or the Managing Director is a question which this Court is dis-inclined to determine at this stage. Thus, the petitioner, without prejudice to his rights, could always file objections to the inquiry report, in terms of, the letter dated 1.3.2018 (Annexure P-14). Particularly, for, learned counsel for the respondents submits that the petitioner could submit his objections to respondent No.3, and *de hors* the observations, made in the impugned letter, that respondent No.3, is indeed the disciplinary authority, the objections raised by the petitioner as also his concern as regards the jurisdiction/competence of respondent No.3, shall be duly examined and dealt with in accordance with law. And, in the event, it is found that disciplinary authority qua the petitioner is the Board of Directors (respondent No.2), naturally the matter shall then be placed before the Board.

As to this, learned counsel for the petitioner submits that the objections to the inquiry report shall be filed (before respondent No.3), within a period of three weeks from today, and thus, the petition be disposed of, in terms of, the statement of the learned counsel for the respondents.

The petition is accordingly disposed of in the above terms. The petitioner may file his objections within the time specified above. In the event the plea set out by the petitioner as regards the authority and jurisdiction of respondent No.3, is rejected, the respondents/authorities shall pass a comprehensive order assigning reasons in support thereof.

05.04.2018

*Manoj Bhutani***(ARUN PALLI)
JUDGE**

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