

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

Letters Patent Appeal No. 131 of 2018 (O&M)

Date of Decision: 04.09.2018

Rajeev Kumar

.....Appellant

versus

Punjab State Power Corporation Limited and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJ MOHAN SINGH, JUDGE**

Present : Mr. Sandeep Arora, Advocate, for the appellant.

KRISHNA MURARI, C.J.(oral)

CM Nos. 283 and 284-LPA of 2018

Heard. For the reasons mentioned in the applications duly supported by affidavit, delay of 4 days in filing and 56 days in re-filing the appeal is condoned. Both the application stand disposed of.

LPA No. 131 of 2018 (O&M)

This intra-court appeal under Clause X of the Letters Patent has been filed by the appellant-petitioner challenging the order dated 30.08.2017 passed by the learned Single Judge dismissing the writ petition filed by him challenging an order of punishment imposed upon him of reduction of two annual grade increments with cumulative effect in disciplinary proceedings.

2. Briefly the facts of the case as culled out from the pleadings of the parties are as under:-

Appellant-petitioner was working as a Junior Engineer in the Punjab State Power Corporation Limited (PSPCL) and at the relevant time he was posted in Sultanpur Lodhi, Sub Division No.1, PSPCL, District

Kapurthala. On inspection of electricity connection of Mehfil Restaurant on 18.11.2009, it was found that the meter was running slow by 50.33% on account of the electric wires not connected properly with the meter. Admittedly, sealing of the meter was carried out by the appellant-petitioner. On the basis of checking report submitted by the Senior Executive Engineer, Kapurthala, a charge-sheet was served upon the petitioner for causing financial loss to the Corporation to the tune of ₹ 5,26,994/- on account of wrong connection of wires with the meter which resulted in slow metering of the connection. Disciplinary proceedings were initiated against the petitioner under the provisions of Regulation 8 of Punjab State Power Corporation (Punishment and Appeal) Regulations read with Regulation 5 (v to ix). A reply to the charge-sheet was submitted by the appellant-petitioner and the Enquiry Officer submitted a report holding him guilty of the charge on the basis whereof punishment of stoppage of two annual increments with cumulative effect was imposed upon him vide order dated 05.07.2012. The appellant-petitioner filed a departmental appeal which was dismissed by the Appellate Authority vide order dated 14.02.2013.

3. Aggrieved, the appellant-petitioner filed the writ petition mainly on the ground that punishment awarded is in contravention to the rules and regulations and against the principles of natural justice as no opportunity of hearing was provided to him during enquiry proceedings and this aspect of the matter was also not taken into consideration by the Appellate Authority.

4. The petition was contested by the respondent-corporation by filing written statement stating inter-alia that not only adequate opportunity was given to him in the enquiry proceedings but he availed the same by participating therein. Not only the appellant-petitioner submitted a reply to

the charge-sheet but his statement was recorded and witnesses were examined and thereafter enquiry report was submitted.

5. Learned Single Judge on analysis of the pleadings and appreciation of the arguments held that the departmental enquiry was conducted as per Rule 8.2 read with Rule 9 of Punjab State Power Corporation (Punishment and Appeal) Regulations, 1971 wherein the charges were proved against him and he was held guilty. Learned Single Judge has further held that the appellant-petitioner was given full opportunity in the proceedings and not only his statement was recorded but other witnesses were also examined and the Enquiry Officer submitted a report after taking into consideration the stand taken by the incumbent and thus it cannot be said that the proceedings were in violation of any principle of natural justice.

6. Once the petitioner submitted his reply to the charge-sheet and participated in the disciplinary proceedings, the same cannot be held to be vitiated only on the ground that no opportunity of personal hearing was given particularly when there is nothing on record to indicate that any such opportunity was asked for by the appellant-petitioner. Even a perusal of the Appellate order goes to show that the grounds mentioned in the appeal have been duly taken into consideration by the Appellate Authority and nothing new was brought on record in the appeal other than what already existed on the record of the disciplinary proceedings.

7. From a perusal of the enquiry report it is apparent that the appellant-petitioner cross examined both the witnesses produced by the department. The statement made by the appellant-petitioner before the Enquiry Officer has not only been taken into consideration but the finding

that the charges are proved against him was recorded after due analysis of the same.

8. Much stress has been laid by learned counsel for the appellant on the argument that the decision of the Appellate Authority is cryptic without taking into account the grounds raised in the appeal and thus the same is in violation of the principle of natural justice and not liable to be sustained.

9. Appellate Authority held that the appellant has failed to produce anything in his defence other than what is existing on record and the consumption has also increased after the connections to the meter were set right.

10. The argument does not hold any water in view of the law laid down by the Hon'ble Apex Court in ***National Fertilizers Ltd. and another v. P.K.Khanna (2005) 7 Supreme Court Cases 597***, wherein it has been held that when the punishing authority agrees with the findings of the enquiry officer and accepts the reasons given by him in support of such findings, it is not necessary for the punishing authority to again discuss evidence and come to the same findings as that of the enquiry officer and give the same reasons for the findings. It is only when the disciplinary authority disagrees with the findings of the enquiry officer on any charge then it becomes obligatory for the authority to record its reasons for such disagreement and record its own findings on such charge if evidence on record is found to be sufficient for the purpose. The same reasoning would apply with equal force in case where the appellate authority agrees with the findings of the enquiry officer affirmed by the disciplinary authority.

11. During the course of arguments, learned counsel for the appellant failed to point out that disciplinary proceeding drawn against the appellant-petitioner was in any way dehors the procedure prescribed under the Service Rules or was in violation of principles of natural justice. Learned counsel for the appellant during the course of arguments has tried to draw our attention to certain factual aspects detailed in the appeal. However, since they are purely factual aspects and were never argued before the learned Single Judge, the appellant-petitioner cannot be permitted to raise these news facts which were not before the learned Single Judge in an intra-court appeal. Thus, we do not find it necessary to go into the said factual aspects.

12. Since no procedural irregularity in the conduct of disciplinary proceedings could be pointed out nor the proceedings can be said to be in violation of principles of natural justice, learned Single Judge cannot be said to have committed any illegality in dismissing the writ petition.

13. Appeal is thus, devoid of merits and accordingly stands dismissed in limine. Consequently, the application for additional evidence also stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(RAJ MOHAN SINGH)
JUDGE

04.09.2018
ravinder

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