

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

CWP No.12126 of 2019 (O&M)

Date of decision: 24.09.2019

Des Raj

.....Petitioner

versus

Punjab State Power Corporation Limited and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Ms. Kiranjeet Kaur, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner raises a challenge to the order dated 04.04.2014 (Annexure P-3) in terms of which a major penalty of stoppage of two annual increments with cumulative effect has been imposed upon the petitioner while serving on the post of Assistant Lineman under the Punjab State Power Corporation Limited.

Further challenge is to the order dated 05.02.2019 at Annexure P-5 passed by the Appellate Authority rejecting the appeal of the petitioner and thereby affirming the imposition of the major penalty.

Having heard counsel for the petitioner at length, this Court is of the considered view that the legality of the order dated 04.04.2014 (Annexure P-3) passed by the Punishing Authority, imposing the major penalty of stoppage of two annual increments with cumulative effect need not be gone into at this stage. Such view is taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

The admitted position of fact is that against the orders imposing the major penalty, the petitioner had availed of a statutory remedy of appeal. Copy of the appeal dated 11.07.2014 has been placed on record at Annexure P-4.

Perusal of the appeal would show that a number of grounds and submissions had been raised. It would not be necessary for this Court to delineate the same in the instant order.

Suffice it to observe that apart from other grounds, the petitioner in the appeal had contended that the articles of charge that have been formulated did not fall within the scope of duties and responsibilities while serving on the post of Assistant Lineman. It had further been contended that during the year 2007-08 the entire work in question had been carried out by private contractors. Yet another ground raised in the appeal was that an Assistant Lineman is not responsible in the illegal running of motors as also electricity theft cases as the entire work is carried out as per directions of the Lineman/Junior Engineer concerned.

The appeal has been dealt with by the appellate authority and has been rejected in the following terms:-

“RESOLVED THAT considering the gravity of the charges levelled, facts of the case, magnitude of punishment awarded, appeal of Sh. Des Raj, ALM against office order no.218 Dt:04.04.2014, and views of Director/Distribution given after personal hearing, to the official, the committee found the official guilty and there being no merit in his appeal and hence rejected the appeal.”.

The order passed by the Appellate Authority is cryptic and non-speaking.

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 (Annexure P-5), passed by the Appellate Authority would clearly show 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 orders dated 05.02.2019 (Annexure P-5) 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 at Annexure P-4. Let the final order upon re-consideration be passed within a period of two months from the receipt of certified copy of this order and after affording to the petitioner an opportunity of personal hearing.

Instant writ petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

24.09.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No