

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

Sr. No.208

**CWP No.17567 of 2015
DECIDED ON: 11.09.2019**

DALJEET SINGH

..PETITIONER

VERSUS

**PUNJAB STATE POWER CORPORATION LTD PATIALA AND
OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashok Bhardwaj, Advocate,
for the petitioner.

Mr. Amit Aggarwal, Advocate,
for the respondents.

ARUN MONGA, J. (ORAL)

Impugned herein inter alia is an enquiry report dated 15.01.2013 (Annexure P-1) and based thereon, a punishment order dated 02.08.2013 (Annexure P-2) whereby his two annual increments with cumulative effect have been stopped which in turn was upheld by an appellate order dated 14.05.2015 (Annexure P-3) but his punishment has been reduced to stoppage of one increment with cumulative effect.

2. Having perused the charges in the charge-sheet framed against the petitioner pursuant whereto the enquiry was conducted vis-a-vis the bills qua which a suit was also filed by the contractor for recovery of money. It emerges that petitioner was allegedly held delinquent of having accepted the inflated bills by the contractor. On the basis of the same very bills, the

CWP No.17567 of 2015

contractor too filed a suit for recovery against the department for non-payment of his bills.

3. The suit filed by the contractor was decreed vide judgment and decree dated 08.12.2010 (Annexure P-6). The relevant extract thereof read as under:-

“18. As per terms and conditions, the work was to be completed on or before 30.11.2005, which was completed within the prescribed period. It was entered in the measurement Book No.23238 at Page No.59 to 66 Ex.P8 by the J.E. Daljit Singh. Till submission of final Bill, none raised any objection regarding quality of work done by Sudesh Kumar. The Technical Audit Team checked the record in April 2006 i.e. after about 5 months of completion of work. There is no evidence as to how this team came to know that earth levelling work was not done. It is not believable that earth was not available within 20 km of surrounding area. The defendants have failed to place on record any complaint or any other record that the work was not done by Sudesh Kumar as per specification. The objections of tempering are also wrong. The cuttings as shown in Ex.D7 were not due to any act of contractor. The contractor had submitted his full and final bill of Rs.5,97,750/- and it was reduced into Rs.5,69,272/- by officials of defendant Board. The net payable amount is shown as Rs.5,46,252/- as is clear from Ex.D7, which was also signed by J.E. Civil and also by another officer of defendants. It is not the case of defendants that they have paid any money to

Sudesh Kumar or his legal heirs. A contractor, who has done the work by spending huge money from his pocket, is entitled to recover an amount of Rs.5,46,252/- from the defendants.

19. *PW3 who is still in service of defendant Board has deposed that Sudesh Kumar got the work and completed the same. He (PW3) had entered the work in measurement book, which was sent to Accounts Branch. During arguments, it was not denied by Ld. Counsel for defendants that JE Daljit Singh has been promoted by the department. DW1 Shamsher Singh has deposed that none of them went at the spot when the work was in progress nor the contractor was called by them. He has admitted the terms and conditions Ex.P4. As per Ex.P4, the work was required to be completed to the satisfaction of JE. The contractor had done the work to the satisfaction of JE. There was no condition of approval of Technical Audit Team. DW1 has also deposed that he does not know if the road was damaged or not. Similar is the position of statement of DW2 Jaswant Singh. He has admitted that the work used to be done under supervision of JE, who gives necessary instructions to the contractor before starting the work. He has admitted that in this case, concerned JE prepared measurement book, who made entries of work done in the same. It is not mentioned by the JE in MB that earth was not filled. The defendants are estopped by their own acts and conduct from raising a plea that Contractor had submitted*

CWP No.17567 of 2015

*bill for Rs.5,99,600/- which was found excess to the tune of
Rs.3,06,090/-."*

4. The above findings of the trial Court have since attained finality as no appeal was filed by the department. On the other hand, the amount decreed in favour of the contractor/LRs is stated to have been paid by the department.

5. In the premise, the department cannot approbate and reprobate inasmuch as on one hand having executed the decree without challenging the same by filing an appeal, on the other hand holding the petitioner guilty of the same very charges which were proved against the department in the proceedings instituted by the contractor. Therefore, the punishment order 02.08.2013 (Annexure P-2) as also the appellate order dated 14.05.2015 (Annexure P-3) are not sustainable and the same are accordingly set aside with all consequential benefits to the petitioners.

6. Petition stands disposed of.

11.09.2019
Ankur

(ARUN MONGA)
JUDGE