

**Sr. No.205
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.18964 of 2016 (O&M)

Date of Decision: 30.05.2019

Jagdish Singh

... Petitioner

Versus

Punjab State Power Corporation Limited and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Pawan Kumar Goklaney, Advocate,
for the petitioner.

Mr. R.L.Sharma, Advocate,
for the respondents.

ARUN MONGA, J.(ORAL)

CM No.6404-CWP of 2019

Application is allowed, as prayed for.

Replication is taken on record.

Main Case

Petitioner herein seeks issuance of a writ in the nature of certiorari, *inter alia*, to quash the orders dated 27.01.2016 (Annexure P-12) vide which the services of the petitioner were terminated. Vide appellate order dated 14.07.2016 (Annexure P-14) the appeal filed by the petitioner against his termination order has been rejected.

2. Conjoint perusal of the pleadings shows that pursuant to the departmental proceedings, the petitioner was exonerated by the Inquiry Officer as per report dated 28.05.2015 (Annexure P-8).

It is no doubt a settled position that the Punishing Authority is not bound by the findings of the Inquiry Officer and is entitled to disagree by recording his dissent in accordance with law and then pass appropriate punishment order after recording his reasons.

3. On the contrary, in the present case, having recorded his note of dissent, the Punishing Authority instead proceeded to appoint a *de novo* Inquiry Officer. In the second round of inquiry, not only the Inquiry Officer indicted the petitioner but did not even grant him opportunity of defending himself. Inquiry Officer proceeded on the basis of the record produced before him and gave his findings *ex parte* and held the petitioner guilty of all the charges. The said second inquiry report has been the sole basis of the order dated 27.01.2016 (Annexure P-12) impugned herein.

4. I am of the view, that the Punishing Authority awarded the punishment of termination of service by adopting a course which is not permissible in law. Even otherwise, on the proportionality of the punishment, the impugned punishment order does not stand the judicial scrutiny and is not tenable. Dismissal from service is one of the harshest punishment for an employee and ought to be resorted to with extra caution.

5. Dismissal from service is akin to economic death penalty as not only the employee loses his livelihood but he also suffers stigma of having been removed from service owing to which his future prospects of re-employment are adversely affected. Not only the employee but the entire family is reduced to live in penury and suffers the consequences throughout their life.

6. Reliance may be placed on a judgment rendered by Division Bench of **Calcutta High Court in case** titled as **Union of India and others Vs. Sri Sankar Prosad Ghosh and another, 2008 (5) SLR 170**. Relevant whereof is reproduced hereinbelow:-

*“13. It would be naïve to say as on today, that livelihood is not a part of right to life. By this time, by a large number of decisions, it has been held by the Hon'ble Supreme Court as well as High Courts in this country that livelihood is an integral facet of right to life. In this connection, a decision of the Hon'ble Supreme Court rendered in the case of **State of Himachal Pradesh Vs. Raja Mahendra, reported in AIR 1999 SC 1786**, may be remembered.*

14. Dismissal from services undoubtedly is taking away the livelihood of a person at an advanced stage because at that stage, it is impossible for a person to get any employment elsewhere as the order of dismissal will be treated as a disqualification. Loosing a job in an establishment amounts to a civil death, as the concerned person will not be in a position to earn livelihood at the advanced stage, when all his energies and endeavours have almost come to a diminishing stage.”

7. Apart from the aforesaid, in the present case, petitioner had rendered 37 years of unblemished service which the Punishing Authority ought to have kept in mind while passing the impugned order and should have, in any case, taken a lenient view.

8. In view of above discussion and the reasoning contained therein, I find that *de novo* second inquiry, per se, was *void ab initio* and could not have been the basis of the impugned

order passed by the Punishing Authority.

9. In the circumstances, the punishment order dated 27.01.2016 (Annexure P-12) is set aside and as a necessary consequence thereof, Appellate Order dated 14.07.2016 (Annexure P-14) is also set aside.

10. Respondents are directed to grant all the necessary consequential benefits to the petitioner along with interest @ 6% per annum with effect from the date of his entitlement till the actual date of disbursement.

11. Let the needful be done within a period of 3 months from the date of receipt of a certified copy of this order.

12. Petition is allowed in the aforesaid terms.

30.05.2019
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No