

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

**CWP-14870-2018 (O&M)
Date of Decision:03.10.2019**

Jagdish Singh

... Petitioner

Versus

PSPCL & others

... Respondents

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

Present: Mr. H.K. Aurora, Advocate for the petitioner.

....

TEJINDER SINGH DHINDSA, J. (ORAL).

CM-13067-CWP-2019:

Application is allowed as prayed for. The accompanying copy of appeal dated 21.06.2016 that the petitioner had preferred against the order of punishment is taken on record as Annexure P-15.

Application is disposed of.

Main case:

Petitioner who was serving on the post of Junior Engineer under the Punjab State Power Corporation Limited stands retired as of today.

Challenge in the instant petition is to the order dated 27.04.2016 (Annexure P-1) passed by the Punishing Authority imposing upon the petitioner a major penalty of stoppage of two annual increments with cumulative effect. Further challenge is to the order dated 14.12.2016 (Annexure P-2), whereby the statutory appeal preferred by the petitioner has been dismissed and thereby affirming the imposition of major penalty.

Having heard counsel for the petitioner at length, this Court is of the considered view that the legality of the order dated 27.04.2016

(Annexure P-1) passed by the Disciplinary 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 being taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

The factual premise emerging from the pleadings on record are that against the order imposing the major penalty, petitioner availed of his statutory remedy of appeal. Copy of the appeal dated 21.06.2016 has been placed on record as Annexure P-15.

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

The appeal has been dealt with by the Appellate Authority and has been rejected in the following terms:

“The appellant Sh. Jagdish Singh, Junior Engineer appeared personally on 14.10.2016 with regard to the appeal filed against the office order No.190 dated 27.04.2016 issued/passed by Chief Engineer/Division North, Jalandhar.

On perusal of the facts, comments of the senior officer and the record come on file duly produced during the course of personal hearing by the employee, it is hereby decided that the appeal filed by the employee against the aforesaid office order is hereby dismissed.”

Suffice it to observe that the order passed by the Appellate Authority dated 14.12.2016 (Annexure P-2) is a cryptic/non-speaking order.

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 orders at Annexure P-2 passed by the Appellate Authority would clearly reveal 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 order dated 14.12.2016 (Annexure P-2) 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 petitioners in the appeal at Annexure P-15. Let the final order upon re-consideration be passed within a period of two months from today after affording to the petitioner an opportunity of personal hearing.

Instant writ petition is disposed of in the aforesaid terms.

Pending application(s), if any, shall also stands disposed of.

03.10.2019

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |