

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

CWP No.24269 of 2019

Date of Decision:04.09.2019

Gurkirpal Singh Randhawa

.....Petitioner

Versus

Punjab State Power Corporation Limited and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr.Ranjinder Singh Sidhu, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J.(Oral)

Petitioner herein is serving on the post of Additional Superintending Engineer, under the Punjab State Power Corporation Limited.

Challenge in the instant petition is to the action of the respondent-Corporation whereby a major penalty of stoppage of two annual increments with cumulative effect, has been imposed upon the petitioner.

Pleadings on record would show that vide office order dated 31.08.2017 (Annexure P-14 colly) afore-noticed major penalty was imposed by the punishing authority. The statutory appeal having been preferred, the same has been rejected vide order dated 04.02.2019 (Annexure P-15 colly) at the hands of the Committee of Whole Time Directors and thereby affirming the imposition of the major penalty.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the legality of the order dated 31.08.2017 (Annexure P-14 colly) 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. Furthermore in view of the order that this Court intends to pass there would be no requirement of issuing notice to the respondent-Corporation so as to seek a written response.

Facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

There would be no dispute as regards the factual premise that against the order imposing the major penalty of stoppage of two annual increments with cumulative effect, petitioner had submitted an appeal dated 14.12.2017 and a copy of which has been placed on record and is part of the document appended as Annexure P-14 (Colly).

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.

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 leveled, facts of the case, magnitude of punishment awarded, appeal of Er.Gurkirpal Singh Randhawa Addl. S.E. (Code No.105856) against office order No.555/D-10393/T-1 Dated 31.08.2017 and office order No.755 dt.1.12.17 and views of Director/Finance given after personal hearing to the officer, the Committee found the officer guilty and punishment awarded was in order and there is no merit in his appeal and hence rejected the appeal.*

FURTHER RESOLVED THAT approval be and is hereby

accorded to convert suspension period of Er.Gurkirpal Singh Randhawa Addl. S.E. (Code No.105856) from 18.04.2014 to 15.06.2016 as LOKD.”

As per above, Punjab State Power Corporation Limited uphold the punishment of forfeiture of two annual increments with future effect given to Er.Gurkirpal Singh Randhawa Addl. S.E. Code No.105856 vide office order No.555 dated 31.08.2017 and the appeal filed by the official hereby stands dismissed.

*Sd/-
Joint Secretary/Technical-1,
PSPCL,Patiala.*

Suffice it to observe that the order dated 04.02.2019 (Annexure P-15 colly) 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 the order passed by the Punishing/Disciplinary Authority came up for consideration before the **Supreme 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-15 colly, 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 orders 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 04.02.2019 (Annexure P-15 colly) passed by the Appellate Authority, 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. Let the final order upon re-consideration be passed within a period of two months from the date of 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

September 04, 2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No