

LPA No. 1953 of 2017 (O&M)

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

**LPA No. 1953 of 2017 (O&M)
Date of decision: 12.07.2019**

Vijay Kumar

... Appellant

Versus

Punjab State Power Corporation Limited and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. V.K. Sandhir, Advocate,
for the appellant.

Mr. Vaibhav Narang, Advocate,
for the respondents.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 23.1.2017, rendered by the learned Single Judge, vide which the appellant-petitioner has been relegated to the Civil Court.

The facts that are required to be noticed are limited.

The appellant joined service with the respondent-Corporation on 1.10.1976. While he was posted as AEE at Operation Sub-Division, Khasa, owing to certain irregularities and negligence, he was served with a show cause notice dated 30.6.2011: that although Dera of Sh. Balwant Singh son of Sh. Labh Singh, was situated at a distance of 580 meters from Ludheywal, but Suresh Kumar (JE), with an intent to supply 24 hours

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electricity to the said Dera, deliberately prepared an estimate showing the distance as 470 meters. And, obviously post approval of the estimate, he did not get the LT line constructed, in terms therewith. The allegation against the appellant was the entry with respect to the said works entered in EMB No. 435 at page 33, and was duly checked or approved by him. Thus, he too connived with the JE, to extend benefit of 24 hours supply of electricity to the consumer, which was contrary to the approved estimate, and violated the sales regulation 45.3.1 and commercial circular No. 72/05. The competent authority, upon consideration of the matter, vide order dated 24.12.2012, ordered stoppage of two annual increments of the appellant, but without cumulative effect. The said order was assailed by way of a departmental appeal, which too was dismissed by the Whole Time Directors of the respondent-Corporation on 24.6.2015. That is how, the appellant approached this Court vide a writ petition, referred to above, which was disposed of, relegating the appellant to avail the remedy by instituting a regular civil suit:

“In view of the pleadings of the learned counsel for the petitioner and on perusal of the impugned orders (Annexure P-3 and P-5), it comes out that there are some facts which are to be established by leading evidence. This can only be done before the Civil Court.

It being so, the petitioner is relegated to avail the remedy before the Civil Court by filing the regular civil suit.”

Having heard learned counsel for the appellant and examined the records, we too are of the view, for the averments set out in the writ petition and the factual dispute sought to be racked up shall require evidence to be led by the parties for conclusive determination of the lis, no interference, indeed, is warranted with the view of the learned Single Judge.

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Particularly, when the case of the appellant himself, in the present appeal, is that upon an examination of the copy of the writ petition and the impugned order and judgment, it transpired that certain relevant documents, that could support his claim, were not even appended with the writ petition. Besides this, another factor that dissuades us to interfere in these proceedings is that order stopping two annual increments of the appellant was passed as back as on 24.12.2012. The appeal against the said order was dismissed on 24.6.2015. The appellant-petitioner retired from service on attaining the age of superannuation on 31.10.2015. Thus, the appellant did not choose to question the order of punishment, while he was in service. Not just that, it was after almost 1½ years of the dismissal of his appeal on 24.6.2015, he approached this Court, vide a writ petition, filed in 2017. Further, even the appeal at hands is barred by 168 days and the explanation set out in the application under Section 5 of the Limitation Act, lacks bonafides. Hence, it appears that writ petition as also this appeal, filed by the petitioner-appellant, was/is speculative.

In the wake of the above, no interference is called for. The appeal being devoid of merit is accordingly dismissed. *Albeit*, needless to suggest that the appellant shall be at liberty to approach the Civil Court for redressal of his grievances and seek appropriate relief as observed even by the learned Single Judge.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 12, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO