

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-32052-2019 (O&M)
Date of Decision: 05.11.2019

Jarnail Singh

--Petitioner

Versus

Punjab State Power Corporation Ltd. & others

--Respondents

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

Present:- Ms. Kiranjeet Kaur, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner raises a challenge to the order dated 4.4.2014 (Annexure P-3) in terms of which a major penalty of stoppage of two annual increments with cumulative effect, has been imposed while he was serving on the post of Assistant Line Man under the respondent-Corporation.

Further challenge is to the order dated 5.2.2019 at Annexure P-5 passed by the Appellate Authority rejecting the appeal of the petitioner and thereby affirming the imposition of the major penalty.

Having heard counsel for the petitioner at length, this Court is of the considered view that the legality of the order dated 4.4.2014 (Annexure P-3) 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. Such view is taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

The admitted position of fact is that against the orders imposing the major penalty, the petitioner had availed of a statutory remedy of appeal dated 11.7.2014 (Annexure P-4) under the provisions of the Punjab State Power Corporation (Punishment and Appeal) Regulations, 1971. 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.

Suffice it to observe that apart from other grounds the petitioner in the appeal had contended that the Articles of Charge that had been formulated against him did not fall within the scope of duties and responsibilities while serving on the post of Assistant Line Man. It had also been urged that the statements of the concerned consumers of whom the electricity connections had been shifted, had not been got recorded. Yet another ground raised was that the petitioner had been discharging his duties as Assistant Line Man at the Complaint Centre and shifting of connections is not within his scope of duty.

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 levelled, facts of the case, magnitude of punishment awarded, appeal of Sh. Jarnail Singh, ALM (I.D. No.248799) against office order no.219 Dt: 04.04.2014, and views of Director/Distribution given after personal hearing, to the official, the Committee found the official guilty and there being no merit in his appeal and hence rejected the appeal.”

Hence, as per the above stated decision the Punjab State Power Corporation Limited, Patiala passes the order to reject the appeal by Sh. Jarnail Singh, Assistant Lineman (I.D. No.248799) filed against the office order no.219 Dt. 04.04.2014.”

The order passed by the Appellate Authority 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 order Annexure P-5 passed by the Appellate Authority would clearly show 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 instant petition is partly allowed and the order dated 5.2.2019 (Annexure P-5), 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 dated 11.7.2014 (Annexure P-4). Let the final order upon reconsideration be passed within a period of two months from the date of receipt of a certified copy of this order and after affording to the petitioner an opportunity of personal hearing.

Instant petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

05.11.2019

lucky

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No