

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

CWP No.27759 of 2017 (O&M)

Date of decision: 06.02.2019

Devinder Kumar and another

.....Petitioners

versus

PSPCL and others

.....Respondents

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

Present:- Mr. Gurminder Singh, Sr. Advocate with
Mr. J.S. Gill, Advocate for the petitioners.

Ms. Monica Chhibber Sharma, Advocate for PSPCL.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioners herein are serving as a Shift Chemist and Lab Assistant, respectively, under the Punjab State Power Corporation Limited.

Challenge in the instant petition is to the orders dated 28.10.2015 (Annexure P-19 colly) imposing upon the petitioners the major penalty of stoppage of three annual increments with cumulative effect. Further challenge is to the orders dated 17.05.2017 and 19.07.2017 (Annexure P-21 colly) whereby the appeal preferred by the petitioners, has been dismissed and affirming the major penalty imposed.

Having heard counsel for the parties at length, this Court is of the considered view that the legality of the orders dated 28.10.2015 (Annexure P-19 colly) passed by the Disciplinary Authority, imposing the major penalty of stoppage of three 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 upon the major penalty, the petitioners had availed the statutory remedy of appeal. The appeals were identically worded and copy of the appeal preferred by petitioner No.1 dated 11.12.2015, has been placed on record and appended as Annexure P-20.

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 charges leveled, appeal of Sh.Sanjeev Kumar Gupta, Shift Chemist (I.D. No.239219) in respect of his appeal against office order No.18/D.M.I-186 dated 28.10.2015, magnitude of punishment awarded and views of Director Distribution given after personal hearing, the committee found no merit in the appeal of the official and hence rejected the same”

According to the decision made by previous Director, appeal filed by Sh.Sanjeev Kumar Gupta, Shift Chemist (I.D. No.239219) against office order No.18/D.M.I-186 dated 28.10.2015, P.S.P.C.L issue orders for dismissing the appeal.

This orders are being issued with the approval of Previous Directors.

*SD/-
Joint Secretary/Inquiry
P.S.P.C.L. Patiala”*

It is in identical terms that the appeal of petitioner No.2 has also

been declined.

Suffice it to observe that the orders passed by the appellate authority dated 17.05.2017 and 19.07.2017 (Annexure P-21 colly) are cryptic and non-speaking orders.

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-21 colly, passed by the Appellate Authority would clearly reveal that the submissions/grounds raised by the petitioners 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 orders dated 17.05.2017 and 19.07.2017 (Annexure P-21 colly) are 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. Let the final order upon re-consideration be passed within a period of two months from today after affording to the petitioners 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.

(TEJINDER SINGH DHINDSA)
JUDGE

06.02.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No