

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

CWP 10479 of 2020
Date of Decision: October 15, 2020

Tarun Kumar Joshi	Petitioner
Versus	
Punjab State Power Corporation Limited	 Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Sidhant Bhonsle, Advocate for
Mr. Abhilaksh Grover, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

The petitioner Tarun Kumar Joshi has come up in this civil writ petition by virtue of Articles 226/227 of the Constitution of India, whereby, he has sought quashing of the charge sheet dated 31.05.2019 (Annexure P-8) terming it to be

in contravention of the rules, law and that the enquiry report dated 30.06.2020 (Annexure P-9) too are contravening the principles of natural justice which were never followed and that due opportunity of cross examining the witnesses in the enquiry was not afforded to the petitioner.

Upon hearing Mr. Mohit Garg, Advocate for the petitioner and Mr. Sidhant Bhonsle, Advocate for the respondent and perusal of the records.

It is not in any manner put to question that at the relevant time, the petitioner was working as Revenue Assistant (R-A) with the respondent/Corporation and posted as such at Doraha. It was during the course of checking vide ECR No. 37/2502 dated 22.07.2014, the checking officer found that an Induction Furnace was running in the premises of the consumer M/s Sokhi Steel, which was being run and charged under the **"General Category"** in stead of **"Power Intensive Unit Category"** and finding it to be a case of unauthorized use of electricity and thereby was causing immense financial loss to the respondent/Corporation. The departmental proceedings were got initiated against the officials of respondents including the petitioner. The petitioner has sought to rely on the rules of the respondent by way of Electricity Supply Code and the fact that when the connection to the consumer was issued on 15.01.2014, the rates of tariff of electricity under the **"General**

Category” as well as **“Power Intensive Unit Category”** were same and which were only revised in July, 2014. The petitioner has relied heavily on the charge-sheet and the manner of the evidence and its misinterpretation claiming that he had no role to play in this unauthorized use of electricity by the consumer.

The respondent besides usual objections took plea on merits that being a large supply (LS) industrial connection with sanctioned load of 1250 KW and contract demand of 1385 KVA when the Mobile Meter Testing Squad (MMTS) on 09.01.2017 found induction furnace running in the premises of the consumer and that the billing was being done under the general industry category and, thus, was causing financial loss. It was claimed that since the petitioner was Revenue Accountant in Sub-Division Doraha neither brought the matter to the notice of the higher authorities nor initiated billing as per the tariff applicable to the case of the consumer and as a consequence of which the default remained in operation for entire year of 2017. The respondent/Department as a consequence of this intentional act of the consumer in collusion with the officials of the respondents charge sheeted the Superintending Engineer, Additional Superintending Engineer, Senior Executive Engineer, Additional Superintending Engineer and Additional Assistant Engineer as well as the petitioner. It was claimed that due show cause notices were issued.

Responses of the delinquent officials were called for and on specific orders of the competent authority they were issued charge sheets and enquiry held by the enquiry officer by giving fair opportunity of hearing following the principle of *Audi Alteram Partem* and, thus, sought dismissal of the petition.

Appreciating the rival contentions, by now it is well settled law reference of which can be taken note of the ratio laid in 'State of Andhra Pradesh and others versus S. Sree Rama Rao' AIR 1963 SC 1723 that the judicial Courts are not supposed to sit as Court of Appeal while adjudicating upon the departmental/domestic enquiries. The broader guidelines only called upon that the principles of natural justice need to be followed and adhered to as per the Principles of Law. The enquiry on the face of it shows that the petitioner was duly associated therein and due opportunity of cross-examining the witnesses of the department was afforded and of leading evidence on behalf of the delinquent officials was made who were duly represented at the enquiry and how there has been remiss on the part of the Enquiry Officer in not fulfilling the requirement of law could not be pin pointed by the counsel for the petitioner. Even after the enquiry report was given, the delinquent official was named and called upon to file his objections, if any. What one could discern from the enquiry findings, the petitioner has tried to be evasive and to unduly

delay the same had been dilly dallying his joining in the enquiry proceedings is also a serious misconduct on the part of the official for which he too has been charge sheeted.

Apparent and as a consequence of this conduct of the petitioner sufficiently illustrates that it is in respect of his misconduct during the discharge of his duties which has caused immense financial loss to his employer/corporation are matters of much consequence. Though great stress has sought to be laid on the orders dated **31.01.2019** passed by the Divisional Commissioner, Patiala Division Patiala acting as a Appellate Authority in terms of Section 127 of the Electricity Act 2003, whereby, the consumer's appeal was allowed and the default so imposed amounting to Rs.1,72,32,654/- was set-aside has not much relevance and bearing on the present case. The Court has to remain within the parameters of the mode of enquiry and if it contravened any of the requirements the administrative law has to be seen and none could be pointed out by the petitioner.

In the light of the foregoing discussion, there is no merit in the instant petition, the same stands dismissed.

October 15, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No