

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

CWP No.978 of 2017

Date of Decision : 21.01.2020

Baldev Singh

....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.H.S.Saini, Advocate
for the petitioner.

Mr.Piyush Khanna, Advocate
for the respondents.

...

TEJINDER SINGH DHINDSA, J.(ORAL)

Reply on behalf of the respondents – Punjab State Power Corporation Limited alongwith Annexures R-1 to R-3 has been filed in Court today. Same is taken on record and a complete copy has been furnished to counsel opposite.

With the consent of the counsel for the parties the writ petition is taken up for hearing today itself.

Petitioner, Baldev Singh, while serving as Upper Division Clerk under the Punjab State Power Corporation Limited, was issued a show cause notice dated 07.11.2013 (Annexure P-1) and ultimately imposed a minor penalty of stoppage of two annual increments without future effect vide order dated 20.01.2015 (Annexure P-3). Petitioner preferred a statutory appeal against the order of punishment and the same has been dismissed vide order dated 12.04.2016 (Annexure P-7).

Instant writ petition has been filed assailing the afore-noticed two orders dated 20.01.2015(Annexure P-3) and 12.04.2016 (Annexure P-7) passed by the Appellate Authority.

Having heard counsel for the parties at length, this Court is of the considered view that the legality of the order dated 20.01.2015 passed by the Disciplinary Authority imposing a minor penalty of stoppage of two annual increments without future effect need not be gone into at this stage. Such view is being 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 the show cause notice issued upon the petitioner incorporated the following charge against him :-

“That he (Sh.Baldev Singh, U.D.Clerk) son of Sh.Piara Singh, under Sub Division, Dera Baba Nanak, under Sub Urban Division Batala while working from 22.03.2009 to till date as Upper Division Clerk, had committing following mistakes/omissions/irregularities.

Senior Executive Engineer/Enforcement Batala has carried out checking on 19.11.2012 regarding complaints of running of Tube well motors un-authorizedly in village Dear Baba Nanak and during checking, consumer Jagir Singh was fined of Rs.65865/- for theft of the electricity. After reviewing this case, the due amount of Rs.28872/- was got deposited from the consumer on 17.11.13. During checking Bhola Singh of village Dharowali under Dera Baba Nanak was fined of Rs.39558/- for theft of the electricity. After reviewing this case,

the due amount of Rs.17340/- was got deposited from the consumer on 19.3.13 and during checking, Sh.Jagir Singh son of Basant Singh was fined of Rs.18350/- for theft of the electricity by directly drawing the power from pole for his poultry Farm which was deposited by him on 17.1.13.

During the course of enquiry, it was found that he (Sh.Baldev Singh, Upper Division Clerk) who was working as dealing/C.C. in cases of thefts had committed negligence in recovering the amount of fine imposed and facilitated the power stealers to get time to get reduced the amount of fine imposed upon them and the FIR in the theft case which was required to be got registered on 21.11.2012, was got registered on 03.12.2012 and caused undue delay. Therefore, he is fully responsible for this electricity theft.”

It is in pursuance to such allegations contained in the show cause notice that the order dated 20.01.2015 has been passed imposing the minor penalty of stoppage of two annual increments without future effect. Petitioner concededly filed an appeal before the Chairman-cum-Managing Director of the respondent-Corporation. Perusal of the appeal would reveal that a number of contentions and grounds have been raised on the merits of the controversy. There would be no requirement to dilate on the grounds raised in the appeal. Suffice it to take note that the petitioner herein had raised a specific contention that the punishment has been imposed on the premise that he was serving as an area Lineman whereas he was holding the post of Upper Division Clerk/Consumer Clerk. It is accordingly contended that the order of penalty has been passed without due application of

mind. That apart, in the appeal it had been stated that the petitioner had issued notices to the consumer and had even addressed a letter to ANTI Power theft for registration of FIR .

The appeal preferred by the petitioner had been dealt with and rejected in the following terms :-

“Whereas the appeal case of the official was considered by the Whole Time Directors in their 179th meeting which was held on 09.03.2016 at Patiala and it has been decided as under :-

“The committee of Whole Time Directors after considering the details given in the agenda passed the following resolution :-

“RESOLVED THAT considering the charges leveled, comments of higher officers and report of Director Commercial given after personal hearing to the official, Committee of Whole Time Directors held responsible to Whereas, Sh.Baldev Singh U.D.C. in negligence of duty and no intimation was given to the higher officers regarding stealing of energy, hence appeal against O/o No.45/T-3 Dt.20.1.15 be and is hereby rejected.”

Therefore, P.S.P.C.Ltd., is hereby issues the orders to reject the appeal filed by Whereas, Sh.Baldev Singh U.D.C. against the Office order No.45 dated 20.1.2015.

This has been issued with the approval of Whole Time Directors.”

Suffice it to observe that the order passed by the Appellate

Authority dated 12.04.2016 (Annexure P-7) 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 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 dated 12.04.2016 (Annexure P-7) passed by the Appellate Authority would clearly reveal that the submissions/grounds raised by the petitioner in the appeal have not been adverted to much less dealt with. The impugned order of the Appellate Authority as such cannot sustain.

For the reasons recorded above, present writ petition is partly allowed and the order dated 12.04.2016 (Annexure P-7) is set aside. 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 07.04.2015. Let a final order upon reconsideration be passed within a period of two months from today and after affording to the petitioner an opportunity of personal hearing.

Writ petition is partly allowed in the aforesaid terms.

21.01.2020
dss

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No