

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

212

CWP-1737-2021

Date of decision: 09.04.2021

Rajinder Kumar

.....Petitioner

versus

Punjab State Power Corporation Limited and others

....Respondents

**CORAM: Hon'ble Mr. Justice Girish Agnihotri**

Present: Ms. Sunaina, Advocate for  
Mr. H.C. Arora, Advocate  
for the petitioner.

Mr. Vinod S. Bhardwaj, Advocate and  
Ms. Samridhi Sareen, Advocate  
for the respondents-PSPCL.

\*\*\*\*

**GIRISH AGNIHOTRI, J. (Oral)**

Petitioner-Rajinder Kumar, stated to be aged 43 years, has filed the present petition *inter alia* with a prayer for issuance of a writ in the nature of certiorari for quashing the Inquiry Report dated 01.01.2018 (Annexure P-3).

On 27.01.2021, this Court had passed the following order:-

*“Petitioner-Rajinder Kumar, stated to be aged 43 years, has filed the present writ petition inter alia with a prayer to quash the Inquiry Report dated 01.01.2018 (Annexure P-3), holding the petitioner guilty of some of the charges contained in the Charge Sheet dated 30.01.2016 (Annexure P-2), and also to quash the*

*Punishment Order dated 13.07.2018 (Annexure P-5), imposing the punishment of stoppage of four increments with future effect, with a further relief as mentioned in the petition.*

*Learned counsel by making reference to petition submits that there are many illegalities/irregularities in the action of the respondents in passing the impugned orders. The impugned orders are, therefore, rendered illegal and arbitrary. He, firstly, submits that both the orders i.e. order of punishment as well as order of Appellate Authority, have been passed in such a manner that hearing was granted by different authorities whereas the orders have been passed by different authorities. Secondly, he submits that both the orders are non-speaking orders and that punishment order does not deal with the contentions raised by the petitioner in his reply to the Inquiry Report.*

*Notice of motion for 24.03.2021.*

*On asking of the Court, Mr. Vinod S. Bhardwaj, Advocate, who is appearing through video conferencing, accepts notice on behalf of the respondents.”*

Learned counsel for the petitioner, based on the pleadings in the petition, submits that a perusal of the impugned order (Annexure P-7) would show that the petitioner had raised various issues in the appeal. It was inter alia submitted that the findings were perverse as recorded by the Inquiry Officer. It was a specific case of the petitioner that the concerned authority had passed the impugned order without discussing the various issues raised by the petitioner in the representation against the Inquiry Officer. It is also the case of the petitioner that the order passed by the Punishing Authority was non-speaking. The grievance further of the

petitioner is that all these issues have not been dealt with by the Authority. Learned counsel then submits that a perusal of the impugned order dated 28.09.2020, passed by Appellate Authority, would show that the Appellate Authority only briefly mentions about two charges in the order, whereas, it is in fact the matter of fact that when the chargesheet was issued there were broadly four or more charges which were duly replied by the petitioner in his representation/appeal (Annexure P-6).

Learned counsel for the petitioner further makes reference to para 12 of the petition, to submit that perusal of the order dated 28.09.2020 (Annexure P-7) passed by respondent No.4 on behalf of respondent No.3 shows that personal hearing was granted to the petitioner by two different officers, whereas the contents of said personal hearing were considered by the Committee of whole time Directors, which forwarded its views on personal hearing to the Board of Directors and thereafter it was the Board of Directors which rejected the appeal filed by the petitioner. The submissions in this regard as pleaded in para 12 of the petition are also reproduced hereunder:-

*'That from a perusal of the order dated 28.09.2020 (Annexure P-7) passed by respondent No.4, on behalf of respondent No.3, shows that it was a case where personal hearing was granted to the petitioner by two different officers, and the contents of said personal hearing were considered by the Committee of Whole Time Directors (WTDs), which forwarded its views on personal hearing to the Board of Directors, and it was the Board of Directors which rejected the appeal by the petition, by a non-speaking resolution, without dealing*

*with any of the contentions raised by the petition in his appeal. The impugned order dated 28.09.2020 (Annexure P-7) passed by the respondent No.4 on behalf of respondent No.3 is, therefore, liable to be set aside and quashed for the four reasons that:*

- i) The personal hearing was given to the petitioner by an officer other than the officer who passed the order in the appeal,*
- ii) The impugned order dated 28.09.2020 (Annexure P-7) was non-speaking*
- iii) Provisions of Regulation 26 were violated by not considering the sustainability of findings on the basis of evidence on record; and*
- iv) Provisions of Regulation 26 were violated by not considering the proportionality of punishment of stoppage of 4 increments with future effect, notwithstanding the fact that the petitioner had more than 21 years of unblemished service record.'*

Written statement dated 09.04.2021 on behalf of the respondents has been filed by counsel for the respondents, in the Court today and the same is taken on record. In the written statement filed by the respondents in the corresponding para 12, this fact has not been denied. However learned counsel further makes reference to Regulation 8(4) of PSEB (Employees Punishments and Appeal) Regulations, 1971, which is reproduced hereunder:-

*“...4. The punishing authority shall deliver or cause to be delivered to the employee a copy of the article of charge, the statement of allegations and a list of documents and witnesses by which each article of charge is proposed to be*

*sustained and shall required the employee to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.*

*Provided that in such cases where the punishing or the appellate authority happens to be the W.T.Ms/Board, a hearing to the employee concerned before imposing the punishment or deciding the appeal, shall be given on behalf of the W.T.Ms/Board by the Chairman or any other Member to be nominated by him.”*

In totality of the above circumstances, writ petition is **allowed** and the impugned order dated 28.09.2020 (Annexure P-7), passed by the Appellate Authority, is set aside. Respondent No.3-Appellate Authority is directed to re-consider the plea taken by the petitioner in the appeal and pass afresh order in accordance with law. It is also directed that it will be appropriate if personal hearing is also granted to the petitioner by the same authority which passes the final order in the appeal.

Ordered accordingly.

**(GIRISH AGNIHOTRI)**  
**JUDGE**

09.04.2021  
anju rani

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