

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-13269-2022

DATE OF DECISION: 14.09.2022

ISHWAR SINGH

... Petitioner(s)

Versus

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ORS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Ashutosh Kaushik, Advocate for the petitioner.

Mr. Dushyant Saharan, Advocate for respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 28.09.2016 (Annexure P-3) and the order dated 21.05.2020 (Annexure P-10) whereby the disciplinary authority has imposed a punishment of stoppage of two annual increments with cumulative effect and the dismissal of his appeal by the appellate authority respectively.

Learned counsel for the petitioner submits that the statutory appeal of the petitioner had been dismissed on account of delay although the petitioner had preferred the same on 26.11.2018 after he had been acquitted in the appeal preferred before the Sessions Court on 09.02.2018. He further submits that the appeal of the petitioner has been dismissed on account of limitation and the delay ought to have been condoned as the petitioner had been implicated in a criminal case in FIR under Section 304-A IPC on the same allegations which are the subject matter of the impugned order passed by the disciplinary authority. The petitioner was working as a Junior Engineer and an Assistant Lineman had been electrocuted while resolving a power breakdown. The allegations were that the petitioner had not taken permission to work but the appellate court after taking into account all the surrounding circumstances had acquitted the petitioner of all the charges. The order of acquittal was passed on 09.02.2018 and the petitioner had preferred the appeal on 26.11.2018. The appeal had been ultimately decided by the impugned order passed on 21.05.2020.

Learned counsel for respondents submits that the petitioner ought to have approached the appellate authority within the period of limitation and as the appeal was time barred the same had rightly been dismissed on account of laches.

Heard.

The petitioner who was working as a Junior Engineer had been involved in a criminal case. He was convicted by the trial Court but later was acquitted by the Sessions Court. The order is stated to have attained finality. The petitioner had preferred an appeal which has been dismissed on account of delay. Although it is well settled that mere acquittal in the criminal cases would not prevent the disciplinary proceedings but I am of the considered view that the appeal of the petitioner ought to have been considered on merits. It would be in the interest of justice, equity and fairplay if the appeal preferred by the petitioner is decided on merits.

Consequently, the petition is partly allowed and the impugned order dated 21.05.2020 (Annexure P-10) passed by the appellate authority is set aside. The appellate authority is directed to pass a fresh speaking order within a period of four months after affording an opportunity of hearing to the petitioner.

14.09.2022

SwarnjitS

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No