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

**CWP-19525-2017
Date of decision: 08.12.2022**

NARINDER SINGH

...Petitioner

VERSUS

PUNJAB STATE POWER CORPORATION LTD. AND ORS.

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. B. D. Sharma, Advocate
for the petitioner.

Mr. Rishabh Gupta, Advocate
for the respondents.

JAISHREE THAKUR, J. (Oral)

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for setting aside order dated 29.06.2016, Annexure P-4, whereby the petitioner has been held guilty of the charges and penalty of 6% cut on his pension for lifetime has been imposed and order dated 20.07.2017, Annexure P-9, whereby the appeal of the petitioner has been dismissed as being time barred.

2. The facts as pleaded by the petitioner are that he joined as Lineman with respondents-PSPCL on 05.04.1983 and now stands retired on 30.09.2016. The petitioner was charge-sheeted on 30.09.2014 vide charge-sheet Annexure P-2 and an inquiry was conducted in this regard. On the completion of inquiry, petitioner was imposed with a punishment of 6% cut on his pension for lifetime vide order dated 29.06.2016 (Annexure P-4). It is

pleaded that the said order was only communicated to the petitioner on 18.04.2017, which information was duly supplied by the department itself on 21.07.2017. On 05.06.2017, an appeal was preferred by the petitioner against imposition of cut of 6% from his pension for lifetime under Articles 17 to 22 of the Punjab State Power Corporation Limited Employee (Punishment and Appeal) Regulation, 1971, within the stipulated period of 90 days of receipt of order dated 29.06.2016. However, the appeal was dismissed on 20.07.2017 vide order Annexure P-9 as being time barred without going into the merits of any of the grounds mentioned in the appeal.

3. Learned counsel for the petitioner assails the order declining to hear the appeal being time barred, by contending that the petitioner only received the impugned order on 18.04.2017, as would be evident from document Annexure P-5 and the communication in this regard addressed to the respondent-Corporation vide Annexure P-6. The period of limitation to be computed would arise from the date when the petitioner was served with the copy of order of punishment and, therefore, the impugned order dismissing his appeal only on the ground of limitation, is unsustainable.

4. Learned counsel for the respondents would oppose the arguments by contending that there is a period of 90 days prescribed for filing of an appeal, however, the petitioner herein did not approach the department within the specified time and, therefore, there is no infirmity with the order so passed.

5. I have heard learned counsel for the parties and have also perused the pleadings of the case.

6. Admittedly, the petitioner herein has been imposed with a punishment vide order dated 29.06.2016 (Annexure P-4), which was only

received by the petitioner on 18.04.2017. It is submitted that the factum of the petitioner having received the impugned order on 18.04.2017 is evident from Annexure P-6, which is a communication of the department itself. The impugned order dated 29.06.2016 was served upon the petitioner on 18.04.2017 as would be evident from bare reading of Annexure P-6 and Annexure P-6 is nothing other than the acknowledgement of department itself that the petitioner had received the office order on 18.04.2017. Taking that as the date of communication of the order and the knowledge of the impugned order, 90 days time would expire on 17.07.2017 and the appeal by the petitioner had been preferred on 05.06.2017.

7. Consequently, the impugned order dated 20.07.2017 (Annexure P-9), rejecting the appeal of the petitioner as time barred, is set aside. The matter is remanded back to the authorities concerned to consider the appeal of the petitioner on merits and pass a speaking order after giving due opportunity of personal hearing to the petitioner herein. Let an entire exercise be done within a period of three months from the date of receipt of the certified copy of this order, in accordance with law.

8. The writ petition is disposed of in the above terms.

08.12.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No