

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 453 of 2016 (O&M)
Date of Decision: 08.12.2022

Yogesh Bedi

...Petitioner

Versus

Punjab State Power Corporation Limited and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vijay Dahiya, Advocate
for the petitioner.

Mr. P. C. Goyal, Advocate
for the respondents.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Certiorari for quashing order dated 25.06.2013 (Annexure P-4), whereby the petitioner has been awarded punishment of stoppage of one annual increment with cumulative effect along with recovery of 15% of embezzled amount of ₹2,43,395/- and order dated 06.07.2015 (Annexure P-6), whereby the appeal of the petitioner against the order dated 25.06.2013 has been dismissed.

2. In brief, the facts as stated are that the petitioner herein joined as Sub-Station Assistant with respondent-PSPCL on 09.09.1989. He was promoted as Junior Engineer (Sub Station) on 31.10.2000 and subsequently, as Junior Engineer (Operations) on 05.11.2001. The petitioner was charge-sheeted on 26.03.2012 (Annexure P-1), *inter alia*, on the charge that he was

assigned the job to remove the electricity wires of 11 KV, Nehru Colony feeder passing over the residential houses and he removed the copper conductors in course of removing the said feeder. The petitioner was charged with embezzlement and committing a fraud to the tune of ₹2,43,395/-. The charge-sheet led to departmental inquiry, wherein a report dated 08.02.2013 (Annexure P-2) was submitted by the Inquiry Officer. Vide the said inquiry, the petitioner was exonerated. Notwithstanding the exoneration, the punishing authority vide impugned order dated 25.06.2013 (Annexure P-4) directed the stoppage of one annual increment with cumulative effect and to recover 15% of the embezzled amount of Rs.2,43,395/- from the petitioner. Aggrieved against the order passed by the punishing authority, the petitioner preferred an appeal before the Chairman-cum-Managing Director, PSPCL, Patiala and the same was dismissed vide order dated 06.07.2015 (Annexure P-6). Hence, the present writ petition.

3. Learned counsel for the petitioner would contend that the impugned orders are liable to be set aside as neither any show cause notice was issued nor any opportunity of personal hearing was granted to the petitioner before passing the orders. It is submitted that in the impugned order dated 26.06.2013, no reasons have been assigned by the punishing authority to record its dissent with the findings of the Inquiry Officer. It is further submitted that the case of the petitioner is squarely covered by the judgments passed by this Court in CWP No.2695 of 2016, titled as Sukhwinder Singh versus PSPCL through its Chairman-cum-Managing Director, Patiala and others, decided on 27.02.2019 and CWP No.20237 of 2016, titled as Jasbir Singh versus PCPCL and others, decided on

07.05.2019. He would also rely upon Rule 9(2) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, wherein punishing authority is under a mandate to record its reasons for disagreement with the findings of the Inquiry Officer.

4. Learned State counsel would contend that the findings of the inquiry report are not binding and the punishing authority has the power to disagree with the same as provided under Rule 9(2) of the Punjab State Electricity Board (Punishment & Appeal) Regulations, 1971. He submits that there is no infirmity in the impugned orders as passed and, therefore, the instant writ petition is liable to be dismissed.

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

6. The Supreme Court in case of **Punjab National Bank versus Kunj Behari Misra, 1998 AIR (SC) 2713**, while dealing with the similar situation, held as under:-

“16. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7 (2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favorable conclusion of the inquiry officer. The principles of natural justice, as we have already observed,

require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.”

Following the judgment of the Supreme Court in **Kunj Behari Misra (supra)**, this Court allowed the writ petition filed by **Sukhwinder Singh (supra)**. The case of the petitioner is squarely covered by Sukhwinder Singh's case.

7. Consequently, the writ is allowed. Impugned order dated 25.06.2013 (Annexure P-4) passed by the punishing authority as also the order dated 06.07.2015 (Annexure P-6), passed by the appellate authority, upholding the order passed by the punishing authority are set aside. The respondents are directed to grant all consequential benefits to the petitioner within a period of one month from the date of receipt of a copy of this order.

8.12.2022

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes

Whether Reportable : No