

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

**CWP No.6135 of 2016
Date of decision: 16.11.2022**

Baaz Singh **..Petitioner**

Vs.

State Of Punjab And Others **..Respondents.**

CWP No. 8482 of 2016

Kewal Singh **...Petitioner**

Vs.

State Of Punjab And Others **. ..Respondents.**

CWP No.8513 Of 2016

Mahinder Singh **...Petitioner**

Vs.

State Of Punjab and Others **...Respondents**

CORAM: HON'BLE MS. JUSTICE JAIRSHREE THAKUR

Present: Mr. J.S. Thind, Advocate for the Petitioner
Mr. Mohit Kapoor, Addl. AG, Punjab.
Ms. Anupam Bhanot, Advocate
for respondents No. 2 and 3.

JAISHREE THAKUR, J.(ORAL)

1. By this common order, this Court is proposing to dispose of three writ petitions as common law point would be involved. For sake of convenience facts are being taken from CWP No.6135 of 2016.

2. In brief the facts alleged are that the petitioner was working as Senior Lineman at Sub Division Khalra, Division Bhikhiwind with Punjab State Power Corporation Ltd. A Show Cause Notice No. 318 dated 21.12.2012 was issued by respondent No.3 on the ground that when inspection was done of village Narlee on 15.4.2011 it was found by the Deputy Engineer that a transformer was fixed at a wrong place. The petitioner gave a reply to show cause notice but the same was not accepted and a punishment of stoppage of three annual increments without future effect was imposed upon the petitioner as per Rule 5 (1 to X) of Punishment and Appeal Regulation Act, 1971 of Punjab State Power Corporation Limited. An appeal was filed against the said order which appeal was dismissed by the appellate authority upholding the punishment given.

3. Aggrieved against the said order, the present writ petition has been filed with a limited prayer that the Appellate Authority has not taken into account any of the grounds as raised in the appeal by the petitioner herein, and the order of the punishment has been upheld. It is further submitted that there is no fault of the petitioner herein, by which the transformer was fixed at a wrong place. It is a contractor in connivance with the consumer who made a wrong line and when it came to the knowledge of the petitioner he immediately informed the concerned Junior Engineer and Junior Engineer then informed the Sub Divisional Magistrate.

4. Whereas learned counsel appearing on behalf of the respondent-State would submit that punishment was awarded to the petitioner by way of office order dated 30.07.2014 due to the negligent approach of the petitioner

in handling valuable material of the department which resulted in a wrong line being placed and therefore, minor punishment has been imposed upon him.

5. I have heard counsel for the parties and have perused the pleadings of the case. Admittedly, the petitioner herein was served the show cause notice dated 30.07.2014 on the allegation that the petitioner did not take care of the valuable material of the department which resulted in the consumer fixing of false line. The order as passed on the show cause notice only mentions that the reply has been considered and a decision has been taken to stop three annual increments. The order dated 30.07.2014 was carried in appeal and the appellate authority has not passed a speaking order thereon. There is no reasoning as to why the replies to the show cause notice have not found favour, moreover the grounds taken in the appeal have not been dealt with. It is expected from the authorities that when they are taking a decision to accept or reject any reply given to a show cause notice, the reasoning must be reflected therein which is apparently lacking in the present cases. In a judgment as rendered by the Supreme Court in **Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank vs. Jagdish Sharan Varshney and Others 2009 (4) SCC 240** it has been held that it is an essential requirement of the rule of law that some reason must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation. The relevant paragraph 7 of this judgment is as under:-

“In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal, but that does not

mean that the order of affirmation need not contain any reasons whatsoever. In fact, the said decision in Prabhu Dayal Grover's case (supra) has itself stated that the appellate order should disclose application of mind. Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority. The view we are taking was also taken by this Court in Divisional Forest Officer v. Madhusudan Rao, JT 2008(2) SC 253 (vide para 19) and in Madhya Pradesh Industries Ltd. v. Union of India, AIR 1966 Supreme Court 671, Siemens Engineering & Manufacturing Co. Ltd. V. Union of India, AIR 1976 Supreme Court 1785 (vide para 6) etc."

Therefore an order of dismissal must disclose reasons as to why the contentions raised are not acceptable to the authorities.

6. Both the orders ,that is order dated 30.07.2014 and the order of the Appellate Authority are devoid of any reasoning and, therefore, are termed to be non-speaking orders and consequently, are hereby set aside.

7. Let a fresh speaking order be passed on the reply filed by the petitioner herein to the show cause notice in accordance with law, giving reasons therein. The petitioner be given one opportunity of personal hearing before passing of any final order.

(JAIRSHREE THAKUR)
JUDGE

November 16, 2022
Poonam Sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No