

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

CWP-2866-2018

Date of Decision: 17.05.2022

Satish Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Deepak Goyal, Advocate,
for the petitioner.

Ms. Samridhi Sareen, Advocate,
for the respondents-PSPCL.

HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed challenging the order dated 12.01.2015 (Annexure P-4), vide which, a cut to the tune of 10% in pension of the petitioner has been imposed through out his life by the respondents as well as order dated 02.08.2017 (Annexure P-7), vide which, the appeal dated 11.03.2015 (Annexure P-5) filed by the petitioner against the said order dated 02.08.2017 has also been dismissed by the respondents.

Learned counsel for the petitioner argues that the petitioner was working as a Revenue Accountant with the respondent-Department, and while working on the said post, he was served a charge-sheet on 31.03.2009 under Section 8 of the Punjab State Electricity Board Employees (Punishment and Appeal) Regulations, 1971 (hereinafter to be referred as 'Regulations 1971'). Learned counsel submits that the allegations alleged against the petitioner in the said charge-sheet dated 31.03.2009

(Annexure P-1) was with regard to the exemption of the line charges, which the petitioner had dealt in a manner not envisaged under the rules concerned. Learned counsel further submits that the petitioner filed the reply on 26.06.2009 (Annexure P-2) to the said charge-sheet dated 31.03.2009 and an enquiry officer was appointed to enquire into the allegations alleged against the petitioner in the said charge-sheet dated 31.03.2009.

Learned counsel for the petitioner argues that though the said charge-sheet was served upon the petitioner in the year 2009, but the same was not taken to its logical end till the petitioner attained the age of superannuation and retired on 31.04.2010 from the respondent-Department and after his retirement, the respondents passed an order dated 12.01.2015 (Annexure P-4), imposing a punishment of a cut to the tune of 10% in pension of the petitioner for life.

Learned counsel for the petitioner submits that against the said order, the petitioner preferred an appeal dated 11.03.2015 (Annexure P-5), giving the details that he is not guilty of the allegations alleged in the charge-sheet dated 31.03.2009 and even the punishment imposed upon him vide order dated 12.01.2015 is not proportionate to the charges alleged in the charge-sheet dated 31.03.2009. Learned counsel further submits that the said appeal dated 11.03.2015 (Annexure P-5) was also rejected by the respondents, vide order dated 02.08.2017 (Annexure P-7). The said impugned orders dated 12.01.2015 and 02.08.2017, being Annexures P-4 and Annexure P-7, respectively, are under challenge in the present petition.

Upon notice of motion, the respondents have filed the reply, wherein it has been mentioned that as the petitioner was found guilty in the disciplinary proceedings pending against him, therefore, a cut to the tune of 10% in his pension has been imposed by the respondent-Department, which is commensurate to the allegations alleged against him in the charge-sheet dated 31.03.2009 (Annexure P-1). Further, the respondents have mentioned that the Appellate Authority, after considering all the facts, came to the conclusion that no interference is needed in the impugned order dated 12.01.2015.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The question whether a cut in pension of an employee for life can be imposed or not by the Department is no more *res integra*. The Division Bench of this Court, while passing order in **CWP-568-2013**, titled as “*Jagdish Mitter Vs. Central Administrative Tribunal and others*”, decided on 19.05.2014, held that a cut in pension of an employee throughout his life is totally disproportionate, where the finding is related to the lack of supervision. In the present case, the situation is somewhat similar. As per the allegations alleged against the petitioner, he did not pass an appropriate order on the application submitted for the change of line connection from M.S. category to S.P. category. That being so, whether the 10% cut in his pension for life is totally disproportionate or not and cannot be sustained is the question to be answered in this petition.

Further, order dated 02.08.2017 (Annexure P-7) passed by the Appellate Authority is totally non-speaking. It is a settled principle of law

that all the grounds raised by an employee in an appeal needs to be considered by the Appellate Authority and the appeal has to be decided by giving a reason, either for accepting or rejecting the same, so that the employee knows, so as to what weighed in the mind of the Appellate Authority, while passing the said order. In the present case, the order dated 02.08.2017 (Annexure P-7), passed by the Appellate Authority is totally cryptic and the appeal dated 11.03.2015 (Annexure P-5), filed by the petitioner has been dismissed only by stating that the Appellate Authority has considered all the facts and came to the conclusion that the appeal deserves to be dismissed.

The Division Bench of the Hon'ble Supreme Court of India, while passing judgment in **Civil Appeal No.3615 of 2011**, titled as “*U.P. Avas Evam Vikas Parishad Vs. Sheo Narain Kushwaha and others*”, decided on 25.04.2011, held that the order in appeal has to be sufficiently reasoned, so as to disclose the application of mind. The relevant paragraphs of the said judgment are as under:-

“ x - x - x

7. Unless the order is reasoned, there will be no way of knowing whether the appellate court has examined the appeal before deciding that it did not deserve admission. As a limited right to appeal to Supreme Court is available against the appellate judgments of the High Court, unless there are reasons in the order of dismissal, it will not be possible for the Supreme Court to examine whether the High Court has rightly rejected the appeal. The appellant who has filed the first appeal in pursuance of a statutory right to file such appeal, paying necessary court fee, can legitimately expect reappraisal of the evidence and

re- determination of the questions raised, unless the statute providing for the appeal provides otherwise.

8. This court has repeatedly pointed out that any dismissal of an first appeal even at the preliminary hearing stage, should be supported by brief reasons. In [Kiranmal Zumerlal Borana Marwadi vs. Dnyanoba Bajirao Khot](#)

- [1983 (4) SCC 223] this court observed :

"As numerous points both of law and facts appear to have been raised in the appeal, which again were sought to be canvassed before us, in fairness to the parties and to us, some reasons ought to have appeared in the judgment indicating what appealed to the High Court to be in entire agreement with the learned trial Judge. Let it be remembered that it was the first appeal against the decision of the trial Court and therein the appellant can and has raised serious questions of law and disputed decision on facts. We, therefore, think that this is pre-eminently a fit case which ought to have been admitted and disposed of on merits."

In [Jayanmti De vs. Abani Kanta Barat](#) - AIR 2000 SC 3578, this Court observed thus :

"We are not satisfied that the High Court has considered the appeal on merits. Even if the dismissal is under Order 41 Rule 11 and the High Court is not required under Sub-rule (4) to record in brief its grounds for doing so, it is not a carte blanche to enable the appellate court to avoid recording any reason whatsoever. We think that the appeal required consideration on merits. We, therefore, set aside the impugned order and remit the appeal to the High Court for disposal of the same on merits and in accordance with law by stating the reasons.

x - x - x"

Keeping in view the above, impugned order dated 02.08.2017 (Annexure P-7) is set aside and the matter is remanded back to the Appellate Authority to consider it once again whether the punishment of cut in pension for life imposed upon the petitioner is proportionate to the charges alleged against him in the charge-sheet dated 31.03.2009 (Annexure P-1) or not, especially when the enquiry officer has exonerated the petitioner and further whether cut in pension can be imposed for a period of lifetime keeping in view the judgment passed in **Jagdish Mitter's case** (supra). Let the Appellate Authority pass the said fresh order within a period of three months from the date of receipt of the copy of this order.

Allowed in the above terms.

17.05.2022*Apurva***(HARSIMRAN SINGH SETHI)
JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No