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

CWP-26723-2019

Date of Decision: 17.05.2022

Surinder Kumar

..... Petitioner

Versus

The Punjab State Power Corporation Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jugam Arora, Advocate, for
Mr. R.K. Arora, Advocate,
for the petitioner.

Mr. Rishabh Gupta, Advocate,
for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, grievance of the petitioner is that a punishment of 12% cut in his pension has been imposed by the respondents vide punishment order dated 06.06.2018 (Annexure P-5), though at the time when the said punishment order was passed by the respondents, the petitioner had not even retired from service and rather, he was in active service with the respondent-Department.

Learned counsel for the petitioner argues that the said punishment, which has been imposed upon the petitioner by the respondents, vide order dated 06.06.2018, is without any application of mind, and therefore, the said punishment order is liable to be set aside.

Upon notice of motion, the respondents have filed the reply, wherein they have conceded the fact that the petitioner was in active service with the respondent-Department on the day when the said impugned order

of punishment dated 06.06.2018 was passed, but submitted that as the petitioner would have retired in the near future, therefore, there was no other proportionate punishment, which could have been imposed upon him, hence, prayer of the petitioner for setting aside the punishment order dated 06.06.2018 (Annexure P-5) may kindly be rejected.

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

It is a conceded position between the parties that the enquiry proceedings concerned against the petitioner are to be conducted under the Punjab State Electricity Board Employees Punishment and Appeal Regulations, 1971 (hereinafter to be referred as 'Regulations, 1971') and in regulation No. 5 of the said Regulations, 1971, the nature of punishments (minor as well as major) have been specified. These punishments are to be imposed upon an employee who is in active service and as the pension is only admissible after the retirement, therefore, none of the penalties mentioned in Regulation No. 5 of the Regulations, 1971, deals with withholding of the pension of an employee, who is in active service with the Department concerned. In the present case, keeping in view the said regulation No.5 of the Regulations, 1971, under which regulation the petitioner was to be imposed punishment being a serving employee, concededly cut in his pension could not have been imposed by the respondents. The petitioner was yet to retire from service of the respondent-Department and was yet to be awarded pension, but the respondents imposed a punishment of 12% cut in his pension, prior to his retirement, which action of the respondents is without any application of mind as well as the jurisdiction and contrary to the rules governing the service.

Keeping in view the above, the punishment of 12% cut in pension of the petitioner, vide impugned order dated 06.06.2018 (Annexure P-5), is set aside with liberty to the respondents to pass the fresh appropriate orders in the facts and circumstances of the present case case.

Allowed in the above terms.

17.05.2022
Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

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