

In the High Court of Punjab and Haryana at Chandigarh

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CWP-25767-2022 (O & M)

Date of Decision: December 14, 2022

TARSEM CHAND

.....PETITIONER

VERSUS

**DAKSHIN HARYANA BIJLI VITRAN
NIGAM AND ORS**

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Ms. Anju Arora, Advocate and
Mr. Bobby Girdhar, Advocate for the petitioner.

Mr. Dushyant Saharan, Advocate
for respondents No.1 to 4.

ANUPINDER SINGH GREWAL, J (ORAL)

Learned counsel for the petitioner, *inter alia*, submits that the second statutory appeal preferred by the petitioner has been dismissed by a cryptic and non-speaking order. The petitioner, who was working as a Junior Engineer, had been departmentally proceeded against on the allegation of misconduct. He had been compulsorily retired from service. He has preferred an appeal there against which was dismissed. The second appeal of the petitioner had been dismissed by the impugned order. She further submits that the petitioner shall be filing a representation for retiral benefits under the Old Pension Scheme and the respondents be directed to consider and decide the same in accordance with law.

Heard.

A perusal of the impugned order dated 23.08.2022 indicates that it is indeed a non-speaking order. The order is reproduced hereunder:-

*“After having considered the 2nd appeal preferred
by Sh. Tarsem Chand, JE against the order of 1st appellate*

authority, in the light of relevant record & defense reply submitted by him, as well as oral submissions tendered by the official, the competent authority has decided that the 1st appeal whereby the punishment enhanced by the first appellate authority are adequate and rejects the 2nd appeal of the official.

Accordingly, 2nd appeal preferred by the Sh. Tarsem Chand, JE is hereby rejected.

This issue with the approval of Managing Director, DHBVN, Hisar.”

It was enjoined upon the Appellate Authority to decide the appeal by passing a speaking order. It could not have been rejected arbitrarily without assigning any reason.

Consequently, the petition is allowed. The impugned order dated 23.08.2022 is set aside and the matter is remanded back to the second appellate authority to decide the appeal by passing a speaking order by affording an opportunity of hearing to the petitioner. Needful shall be done within a period of three months from now.

In the event of the petitioner filing a representation for retiral benefits under the Old Pension Scheme, the same shall be considered and decided by respondent No.1 within a period of four months from now in accordance with law.

(ANUPINDER SINGH GREWAL)
JUDGE

December 14, 2022
A.Kaundal

Whether speaking/ reasoned : Yes/No
Whether Reportable : Yes/No