

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

CWP No.1561 of 2020

Date of decision: 14.02.2023

Shyam Lal

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Ashutosh Kaushik, Advocate for the petitioner.

Mr. Naveen S.Panwar, DAG Haryana.

Mr.R.K.Doon, Advocate for respondent No.2.

Raj Mohan Singh, J.(Oral)

The petitioner has assailed the order dated 10.04.2019 passed by under Secretary-HR-1 (Co-ord.) for CGM/Administration, UHBVNL Panchkula and order dated 31.7.2017 passed by Chief Engineer, Operation UHBVNL, Panchkula.

Perusal of the record would show that before passing the order dated 31.07.2017 by the Chief Engineer, Operation UHBVNL Panchkula, comments upon the reply to charge sheet No.02/E.P-12567 dated 10.10.2016 were called from Superintending Engineer (Operation) UHBVNL Panchkula. In the comments submitted by the said Authority, it was communicated

that an amount of Rs.2,88,792/- was charged by the official/retiree instead of actual chargeable amount of Rs.6,97,369/- and the official did not charge penalty as per sale circular No.15/2014. In view of the said omission, loss of revenue to the tune of Rs.19,6158/- had occurred to the Nigam. In addition to that, an amount of Rs.28168/- was wrongly refunded by the official thereby causing financial loss to the Nigam. In addition to the aforesaid, it was also alleged that the official had charged less penalty of amount of Rs.4,08,577/- against theft committed by M/s Indust Tower Jalmana and detected by the Operation wing on 26.06.2014. In this way, total amount of loss was assessed to be Rs.6,32,903/- which the official/petitioner failed to recover the amount. To the aforesaid charges, reply was filed by the petitioner thereby taking the plea that the cause of less charging of amount by the petitioner was on account of theft of energy and the relevant sale circular was not available. On coming to know about this, he immediately overhauled the consumers account and charged the difference of theft amount as per sale circular No.15/14 and gave the notice to the consumer for depositing the said amount of Rs.6,32,903/-. The alleged amount was also deposited by the consumer by making the payment online vide computerized receipt No.2168227 dated 02.05.2017. As the whole amount was received from the consumer, therefore, the petitioner made

a request for dropping the charges. The Superintending Engineer Operation after giving the details of amount deposited by the consumer forwarded the comments that the consumer had already deposited the amount alongwith current electricity bill of Rs.9,69,855/- and the same had already been accounted for in the account of Nigam for which the copy of consumer ledger and cash receipts were also enclosed alongwith comments. While passing the order dated 31.7.2017 by the Chief Engineer (Operation), the aforesaid comments have not been considered in any manner except to observe that on the basis of material available on record it has been decided that the amount equal to two annual increments without future effect be recovered from the petitioner after his retirement. In the appeal preferred by the petitioner, though the reference has been made to the comments, but the appeal was decided in the absence of the petitioner as the petitioner did not attend the proceedings. By referring to the order dated 31.7.2017 passed by the Chief Engineer (Operation). Learned counsel for the petitioner submits that the petitioner has lost the remedy of bare assessment by the prescribed authority on the basis of comments received from the Superintending Engineer.

In view of the aforesaid fact, the appellate Authority could have remanded the case back to the prescribed authority for passing appropriate order in accordance with law. The factual

matrix of the case is not in dispute.

Learned counsel for the respondents has brought to the notice of the Court that during the pendency of the appeal before the authority, the petitioner venture to file CWP No.15210 of 2019 in which direction was issued to decide the appeal and thereafter, order dated 10.04.2019 came to be passed by the Appellate authority and therefore, filing of aforesaid writ petition is of no significance.

In view of the aforesaid, I deem it appropriate to set aside the impugned orders and remand this case to the Chief Engineer Operation, DHBVN Panchkula for passing fresh order after considering the comments of the Superintending Engineer (Operation) UHBVNL in accordance with law. Reply filed by the petitioner to the charge sheet may also be considered without being influenced by any observation made in the present order. Let the needful be done by the Chief Engineer (Operation) UHBVNL Panchkula at the earliest and thereafter the parties would be at liberty to avail their respective remedies in accordance with law.

Disposed of.

(Raj Mohan Singh)
Judge

14.02.2023
Meenu

Whether speaking/non speaking : Yes/no
Whether reportable : Yes/No