

KHARAITI LAL

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Mohnish Sharma, Advocate for the petitioner.

Mr. Kapil Bansal, DAG Haryana.

Mr. Brijesh, Advocate for
Mr. Rajesh Gaur, Advocate for respondents No.2 to 8.

SANDEEP MOUDGIL (J), ORAL

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for quashing of the order dated 29.03.2019 (Annexure P-8) awarding stoppage one annual increment with future effect alongwith order dated 10.09.2019 (Annexure P-10) passed by the Appellate Authority holding petitioner guilty of the charges to the effect that he failed to recover the amount of default from the consumer upto 27.11.2013 and also failed to supervise the work.

2. Learned counsel for the petitioner has drawn attention of this Court to the inquiry report, which is undated attached as Annexure P-5. The dispute arose on account of release of connection after the owner of the building namely Sh. Tajinder Pal Singh s/o Harjeet Singh got NOC issued from the SDO/JE/CC dated 06.09.2013 on an application submitted by him on 19.05.2013.

3. In fact, there was an outstanding amount to the tune of Rs.30,651/- for the same premises i.e., House No.38, 8 Marla Colony, Panipat, for which D.S. Connection was released on 06.09.2013 admittedly without doing site inspection

DHBVN namely the sales manual grant of electric connection.

4. Mr. Brijesh, Advocate appearing on behalf of Mr. Rajesh Gaur, Advocate submits that the petitioner while working as Commercial Assistant performing supervisory duties does not point out with regard to the amount of default as per the ledger. It is on that account, he asserts that the petitioner is guilty and punishment of stoppage of one annual increment without cumulative effect has been rightly inflicted upon him, however, he has no answer to the query as to what was his specific role in release of electricity connection in question, which is otherwise categorically observed in the reply submitted by the petitioner that it was released by only SDO/JE/CC on 06.09.2013 and the petitioner has no role whatsoever and no responsibility for the assets and liabilities. It is always the ALM/LM, who are well conversant with the area and the Junior Engineer has to inspect the site, whereas adherence to the circular No.U-63/2007 with regard to the effecting of recoveries is to be made at the behest of SDO, who did not made any attempt but has deposited first instalment out of the defaulted amount to the tune of Rs.10,000/- on 24.05.2013, the petitioner was transferred from that Sub-Division on 27.11.2013 and no efforts whatsoever were made by any of the officials for effecting the recovery of balance defaulting amount from the consumer-Tajinder Pal Singh s/o Shri Harjit Singh, who on earlier occasion had defaulted and his electricity connection was disconnected, but shockingly again for the same premises new electricity connection has been released ignoring earlier default amount for which the petitioner has been made solely responsible.

5. Mr. Brijesh has also failed to justify as to why no action has been taken against the Junior Engineer, SDO-CC, who are also equally responsible people at all rather for much more responsible looking at their duties assigned as per the circular, whereas the petitioner is only a supervising official posted in the office itself and on

down procedure for the same in the circular referred hereinabove.

6. Be that as it may, after having perused the inquiry report as well as the punishment order and considering the submissions made by learned counsel for respective parties, this Court is fully convinced that the inquiry conducted against the petitioner with a pre-determined mind, wherein nor any office record has been examined or perused neither any other witness has been called upon and JE/SDO/CC have been spared without even making any reference to them. The reasons recorded in the inquiry report are also vague without any iota of supporting regulations as to who has the responsibility of effecting recovery and why efforts were not made since the date of default, which became due almost 10 years prior to the release of connection in question on 29.05.2013 in that amount, which admittedly has been deposited by none other than by the SDO i.e., Rs.10,000/- on 24.05.2013 enabling the release of communication which is sufficient to drive inference that SDO was hand in glove with the owner of the premises through Tajinder Pal Singh and petitioner alone has been made scapegoat to save the skin of higher officials who are working and were supposed to make a site inspection as well.

7. Even otherwise, Rule 7 of the UHBVN (Punishment and Appeal) Regulations 2018, the procedure for conducting the departmental proceedings has not been followed in letter and spirit, inasmuch as neither any material record was made available on the file nor it was summoned by the Inquiry Officer of the Department. In fact, perusal of the inquiry report clearly demonstrates that domestic electricity connection was applied and same has been released after the application form, necessary fee was paid and the said application form has been filled up by the Assistant Line Man and certificate of site verification and no use certificate was also to be filled and verified by the Junior Engineer, who was actually responsible

8. It is also beyond any stretch of imagination to understand that as to how petitioner has been made liable for effecting recovery to the tune of Rs.30,650/-, which is actually liable towards Shri Tajinder Pal Singh and none of the officials have made any effort whatsoever as is evident from the record before this Court attached to the present petition that no notice was issued to the consumer and the amount, if any is to be recovered from the consumer alone and not from the petitioner for which there is no justifiable reason coming forth during the submissions made by Mr. Brijesh.

9. At best, the petitioner could have been charge-sheeted for dereliction of duty etc. but the initiation of departmental proceedings against him for effecting recovery of Rs.30,651/- smells of malice, bias and an act of mischievous design by none other than the actual responsible officers i.e. SDO/JE of the area.

10. In light of the discussions made hereinabove, it is abundantly clear that the inquiry report and the whole departmental proceedings suffers from vindictiveness, bias and pre-determined mind to save the skin of senior officers and regular employees, wherein no material whatsoever has come forth to implicate the petitioner for alleged loss caused to the UHBVN.

11. Hence, the order dated 29.03.2019 (Annexure P-8) and 10.09.2019 (Annexure P-10) are hereby ordered to be quashed and the payment of annual increment, if stopped by now for one year shall be released forth with after completing the arrears and fixation of revised pay in the light thereof alongwith interest @ 9 % per annum till the date of its realisation from the date it was stopped or made effective.

12. Petition stands allowed in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

03.10.2023
Meenu