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

**CWP-13552-2021
DECIDED ON: 20.07.2023**

SANJEEV ARORA

.....PETITIONER

VERSUS

**HARYANA POWER GENERATION
CORPORATION LIMITED & ANOTHER**

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Mohunta, Advocate for
for the petitioner.

Mr. Jagbir Malik, Advocate
for respondent No.1.

Mr. Brijesh, Advocate for
Mr. Rajesh Gaur, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

The instant petition under Article 226 of Constitution of India for issuance of a writ in the nature of certiorari for quashing the charge-sheet dated 08.08.2017 (Annexure P-1) passed by Chief Engineer/Administration with the approval of Managing Director of respondent-corporation, order dated 26.09.2019 (Annexure P-3), whereby, enquiry report dated 08.03.2018 of Enquiry Officer (Annexure P-2) was accepted and punishment of stoppage of two annual increments with cumulative effect and also recovery of Rs.3,18,957/- was imposed upon the petitioner and appellate authority, vide order dated 28.02.2020 (Annexure P-4) issued by Chief Engineer.

The Learned counsel for the petitioner relying upon the Regulation 21(1) read with Appendix-D of Punjab State Electricity Board Service of Engineers (Electrical) Recruitment Regulations, 1965 and urges that it is the Board of Directors, who is the appointing authority and full time board, can only initiate the proceedings and award punishment to the petitioner, who was working in the rank of Accounts Officer.

On the other hand, learned counsel for respondent No.1 relies upon notification of HPGCL dated 23.11.1998 (Annexure R-2), wherein an amendment was made in the said regulations being applicable to Managing Director-HPGCL delegating the power of Board of Directors/Whole-time-Directors/Directors/Chief Engineer/Administrator, which reads as under:-

“Managing Director, will exercise powers to decide the punishment cases relating to Xens and above and equivalent rank and status.”

To counter the said assertion made by learned counsel for respondent No.1, the counsel for the petitioner on the strength of Para 6 of written statement filed by respondent No.1, argues that in fact the HPGCL itself has admitted that the service rules governing the job service relating to the petitioner, while serving in HPGCL, are ‘Punjab State Electricity Board Service of Engineers (Electrical) Recruitment Regulations, 1965’ and as per note 2 of Appendix-D, the punishing authority in the case of Chief Engineers and equal status, was full board.

Considering the aforesaid submissions made by learned counsel for the respective parties and also in the light of settled proposition in service jurisprudence that the punishing authority/disciplinary proceedings, cannot be initiated by rank below to the Appointing Authority, which is the Board of Directors in the case of Chief Engineers and the instant charge-sheet assailed

in the present writ petition, has been issued by none other than the Managing Director-HPGCL.

Learned counsel for respondent No.1 candidly and fairly agreeing with the legal proposition put forth by this Court, submits that HPGCL should be given the liberty to initiate disciplinary proceedings afresh in accordance with law.

Considering the aforesaid prayer made by learned counsel for respondent No.1 and the submission made by the respective parties charge-sheet dated 08.08.2017, is ordered to be quashed however respondents-HPGCL will be at liberty to initiate fresh disciplinary proceedings in accordance with regulations governing the service conditions of the petitioner.

In case, the respondents do not move ahead with the disciplinary proceedings against the petitioner, the retiral benefits shall be released forthwith.

Accordingly, the petition stands disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

20.07.2023
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>