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

CWP-15218-2019

Date of decision : 28.02.2023

Jagmohan Singh

..... Petitioner

versus

Punjab State Power Corporation Ltd. and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Sahil Sharma, Advocate
for the respondents.

PANKAJ JAIN, J.

Petitioner seeks writ in the nature of certiorari for quashing of the impugned order dated 24.01.2018/02.02.2018 (Annexure P-6) and that 25.02.2019 (Annexure P-8).

2. Petitioner was posted as Deputy C.E. Enforcement when he was made member of Committee to recheck/inspect two meters suspected of fake seals. In order to check pilferage of energy, routine inspection was conducted on 07.08.2015. 402 meters were brought to M.E. Lab. Two meters were challaned with the remarks "suspicion of fake seals". Inspection of the said meters was conducted by a Standing Committee of 03 officials namely:-

- (i) Paramjit Singh, Addl. S.E. Enforcement – I, Jalandhar
- (ii) Dwarka Dass, J.E. Incharge S.D.O. M.E.
- (iii) Sukhwinder Singh, S.D.O. Operation.

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3. The same were said to be 'OK' by the said Committee. C.E. Enforcement, Patiala constituted Committee of 07 officials for rechecking/inspection of the said two meters which include following members:-

- (i) Jagmohan Singh, Deputy C.E. Enforcement, Jalandhar-
the present petitioner
- (ii) Kuldeep Singh, S.E. Enforcement, Ludhiana
- (iii) Tarlok Singh, Addl. S.E. Enforcement, Ludhiana
- (iv) Paramjit Singh, Addl. S.E. Enforcement, Jalandhar
- (v) Kulwinder Singh, Addl. S.E. (O.P) Goraya
- (vi) Sukhwinder Singh, A.E. (O.P) Phillaur
- (vii) Kulwant Singh Sandhu, Addl. S.E., M.E. Lab, Ludhiana.

4. The meters were checked by the Committee. Four members concluded that the meters were tampered and it was a case of pilferage of energy. However, three officials including the petitioner did not endorse the report.

5. A preliminary inquiry was conducted in which 08 officials including the petitioner were found *prima facie* responsible. On the basis of said preliminary inquiry, chargesheet dated 19.01.2016 was issued on the petitioner. Regular inquiry was conducted which held petitioner alongwith 07 other officials guilty of misconduct. The petitioner was served with the show cause notice alongwith the inquiry report. Finally, order dated 24.01.2018/02.02.2018 was passed imposing punishment of 10% cut in pension for five years. The petitioner preferred appeal which was dismissed vide order dated 25.02.2019 (Annexure P-8).

6. Counsel for the petitioner has raised solitary contention w.r.t. parity. It has been claimed that Sukhwinder Singh, S.D.O. Operation who

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was part of initial Standing Committee of 03 officials to inspect the two meters has been awarded a punishment of censure, whereas the petitioner has been granted much higher punishment of cut of 10% in pension for five years. Mr. Sidhu appearing for the petitioner thus asserts that as per the settled law, the employees facing similar charges ought to have been treated equally. The petitioner cannot be singled out for awarding cut of 10% in pension for five years.

7. Per contra, Mr. Sahil Sharma counsel for the respondents-Corporation submits that the petitioner being a senior most member and posted as Deputy C.E. Enforcement, Jalandhar had a bigger responsibility and by not signing the report, he earned embarrassment for his employer. He refers to para No.7 of the written statement to submit that the meters were re-checked in the presence of the petitioner and both the seals of the meter were declared fake, ultrasonic welding was found to be tempered and counter covers of the meters were found to be open, on the basis of which pilferage was made out, yet the petitioner did not submit any report of the checking conducted in his presence to higher officials and was thus negligent and thus guilty of misconduct.

8. I have heard counsel for the parties and have gone through the records of the case.

9. In order to appreciate the controversy in hand, it will be apt to peruse the summary of charges levelled against the petitioner:-

“xx xx xx

He (Engg: Jagmohan Singh) through Ramesh Kaile Additional Assistant Engineer/Enforcement-1 Jalandhar got issued directions to Assistant

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Engineer/Distribution Sub Division Phillaur over telephone and called for Pack seal Meters of Sh. Krishan Lal Account No. GT35/196 and Sh. Rampal Account No. GT35/177A 30 by Distribution Sub Division Phillaur on the basis of ME Seals and Meter Body being suspicious at M.E. Lab Goraya for checking and conducted checking of both these Meters through Engg. Paramjit Singh Additional Superintending Engineer/Enforcement declared these Meters in order (Confirmation of the same is made from the recording of conversation of Sh. Ramesh Kaile with Engg. Kulwinder Singh Additional Superintending Engineer/Distribution Division Goraya) whereas the work of checking of Meters concerning with Distribution Division Phillaur was falling under the jurisdiction of Additional Superintending Engineer/Enforcement Nawanshehar. Thereafter according to the instructions of Chief Engineer/Enforcement Patiala on dated 14.08.2015 these Meters were checked again by Engg. Kuldeep Singh Superintending Engineer Enforcement Ludhiana in the presence of Engg. Jagmohan Singh Deputy Chief Engineer/Enforcement Jalandhar then both the seals of the Meters were found as fake, ultrasonic welding being found tempered and counter covers of the Meters found open, on the basis of which both the Meters were declared as case of pilferage. But he (Engg. Jagmohan Singh) had not appended his signatures upon the checking report of these Meter, as a result of which concerned consumers got a chance to file complaint that this officer is not in concurrence with the checking of these Meters conducted on dated 14.08.2015 and apart from that pilferage case of these Meters weakened. He

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(Engg Jagmohan Singh) had not submitted any report according to the instructions of Chief Engineer/Enforcement Patiala with regard to the checking conducted on dated 14.08.2015 in his presence and under his supervision to Higher Rank officers He (Engg. Jagmohan Singh) is responsible for above mentioned negligence.

So for causing above mentioned negligence/carelessness by him (Engg Jagmohan Singh), proceedings is to be initiated against him under Regulation 5 (v) to (ix) of the Punjab State Electricity Board now Punjab State Power Corporation Limited., Employees Punishment and Appeal Regulation 1971, read with Regulation 8.”

10. The conclusion of the inquiry report qua the petitioner read as under:-

“(5) Er. JAGMOHAN SINGH DEPUTY CHIEF ENGINEER: NOW CHIEF ENGINEER

In this case respondent Engineer Jagmohan Singh was posted at Chief Eng: Enfo. Jalandhar.

(1) Related to Sub division Phillaur Sh. Krishan Lal Account No. GT35/196 and Sh Rampal Account No. GT35/177A 2 Nos. 3Ø Meters were Pack sealed according its LC.R. its M.E. Seals were suspicious. Checking of Meters concerning with Distribution Division Phillaur was falling under the jurisdiction of Additional Superintending Engineer/Enforcement Nawanshehar, but checking of both these meters was conducted by Engg: Paramjit Singh Additional Supdt. Engg. Enfo. -1 Jalandhar on dated 07.08.15 at M.E. Lab Goraya by going beyond his jurisdiction and declared the meters in order to which later on dated 14.08.15 in the checking conducted again these meters were

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declared as pilferage case. No role at all of respondent Er. Jagmohan Singh is proved in this unauthorized checking because neither there is any concrete reference is there in the conversation held between Er. Ramesh Kaile and Er. Kulwinder Singh nor is in the cross-examination led by the proposal officer any of the respondent has mentioned about Er. Jagmohan Singh in this regard. Therefore, charge No. 1 leveled against respondent is not proved.

(2) According to the instructions of the then Chief Engg. Info. Engg. Darshan Singh, re-checking of these meters was ordered to be conducted under the supervision of Engg: Kuldeep Singh Supdt. Engg: Enfo. Ludhiana and respondent Er. Jagmohan Singh (The then Deputy Chief Engg: Enfo. Jalandhar). During this checking both the meters were declared as pilferage case. Generally the officers who conduct checking, they used to append their signatures upon the checking report. Because this checking was being conducted under the supervision of Engg: Kuldeep Singh Supdt. Engg: Enfo. Ludhiana and respondent Er. Jagmohan Singh, therefore, signatures of both these officers were not necessary, therefore, charge No. 2 leveled against the respondent is not proved.”

11. Qua Sukhwinder Singh, the conclusion reads as under:-

“(3) ENGG: SUKHWINDER SINGH ASSISTANT ENGINEER

In this case at that time the Respondent Engg. Sukhwinder Singh was posted as Sub Divisional Officer Phillaur.

1) Related to Sub division Phillaur Sh. Krishan Lal Account No. GT35/196 and Sh. Rampal Account No. GT35/177A 2 Nos. 30 Meters were Pack sealed

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according its LC.R. its M.E. Seals were suspicious. On 07.08.15 both above mentioned Meters were brought to M.E. Lab Goraya for checking vide Challan No. 36 dated 07.08.15 and upon this Challan special remarks were mentioned upon the Challan with regard to seals of the Meter being suspicious. The respondent had not taken care of the special remarks and had not conducted any inspection regarding purity of the seals. It was the duty of the respondent to examine the seals of these Meters in each and every condition and when Additional Supdt. Engg: Enfo. Jalandhar-1 and Sh. Dwarka Dass J.E. Incharge M.E. Lab Goraya after conducting checking declared the Meters in order then respondent ought to have objection about the purity of the seals because in the LC.R. prepared by Task Force also comments regarding seals being suspicious were mentioned. Respondent being the Sub Divisional Officer was having complete knowledge of the case. Sh. Ramesh Kaile Additional Assistant Supdt. Engg: Enfo Ludhiana who was present during the checking on dated 07.08.15, has admitted in the telephonic conversation held with Engg: Kulwinder Singh Additional Supdt. Engg: Division Goraya, recording of which was made, that when the Meters were checked then at that time ultrasonic welding of the Meters was open. Counters of the Meters were also opened, M.E. Seals of the Meters were duplicate and the Meters were concerned with pilferage. Knowing all these facts the respondent appended his signatures regarding the Meters in order. Despite the meters being suspicions these were not got seal pack therefore, charge No. 1 leveled upon the respondent goes to prove.

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- 2) According to oral instructions of the then Chief Engg: Enfo. Engg: Darshan Singh orders were passed to conduct Re-checking of these meters under the supervision of Engg: Kuldeep Singh Supdt. Engg: Enfo. Ludhiana and respondent Er. Jagmohan Singh (The then Deputy Chief Engg: Enfo. Jalandhar). Checking of both these meters was conducted on dated 14.08.15. During this checking seals of both these meters were found as fake. Ultrasonic welding being found tempered and counter covers of the Meters found open and the meter of Sh. Rampal Account No. FT-35/177A was found running slow to the extent of 32%, therefore, both these meters were declared pilferage case. Had these meters checked properly by the respondent on dated 07.08.15 then these errors/shortcomings would have come to fore at the same time and case of pilferage can be declared then itself. Therefore, Charge No. 2 leveled upon the respondent goes to prove.”

12. Sukhwinder Singh was part of first checking team which certified meters to be OK. Petitioner was part of second team assigned to re-check the meters.

13. From the comparison of the charges, it is evident that the allegations levelled against Sukhwinder Singh are graver than those levelled against the petitioner. Petitioner cannot be held guilty of a grave misconduct for having not signed the re-checking report. The law w.r.t. parity in the punishment has been culled out by Division Bench of this Court in '*Chattar Singh vs. The Haryana Vidyut Prasaran Nigam Limited and others* reported as 2002(1) RSJ 97', wherein the Division Bench held as under:-

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“8. The conclusion drawn above is also in consonance with the judgments relied upon by the learned counsel for the petitioner. In *Parboth Sagar v. Punjab State Electricity Board, Patiala, Parboth Sagar v. Punjab State Electricity Board, Patiala, 1997(3) RSJ 194 : 1997(3) SCT 383*, this Court in paragraph 23 opined that a person who according to the authorities was merely negligent could not be more guilty than a person who had actually committed embezzlement. In the instant case, the only allegation against the petitioner is of negligence in the discharge of his duties. He can certainly not be inflicted a punishment which is more stringent than the punishment inflicted on those who have been found to be guilty of embezzlement. Learned counsel for the petitioner has also placed reliance on the decision rendered by this Court in *N.C. Arora v. State of Haryana, 1997(1) SCT 206*. In the aforesaid case three officials had been charged with negligence in respect of a transaction which had resulted in loss to the Government. The Punishing Authority inflicted upon one of the three officials the punishment of stoppage of two increments; against another, the Punishing Authority passed an order of recovery of a part of the loss; whereas against the petitioner, the Punishing Authority passed the order of dismissal from service. On the basis of the facts in the aforesaid case, this Court arrived at the conclusion that the Punishing Authority had acted unfairly. Consequently, the order of punishment was quashed with liberty to the Government to take a fresh decision in accordance with law. The conclusions drawn in the aforesaid decision also apply to this case.”

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14. In view of the aforesaid settled law, it is evident that the petitioner was not party to the initial checking of the meter and was member of the Standing Committee which re-checked the meter and found that the same was tampered. Merely for the reason that the petitioner has not signed the checking report, he cannot be held guilty of a grave misconduct to invite punishment higher to the one awarded to Sukhwinder Singh.

15. Resultantly, the present writ petition is allowed. Impugned order dated 24.01.2018/02.02.2018 (Annexure P-6) and 25.02.2019 (Annexure P-8) are hereby ordered to be quashed.

(PANKAJ JAIN)
JUDGE

28.02.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes