

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

CWP-16652-2019

Date of decision : 28.02.2023

Paramjit Singh and another

..... Petitioners

versus

Punjab State Power Corporation Ltd. and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Sahil Sharma, Advocate
for the respondents.

PANKAJ JAIN, J.

Petitioners seek writ in the nature of certiorari for quashing of preliminary inquiry report dated 14.10.2015, final inquiry report dated 24.01.2018 (Annexure P-5) and the order dated 24.01.2018 whereby he has been awarded punishment of compulsory retirement and further order passed by the Appellate Authority dated 25.02.2019 (Annexure P-8) affirming the same.

2. Petitioners herein were working as Addl. S.E. Enforcement-I, Jalandhar/S.D.O in M.E. Lab at Goraya. 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
(petitioner No.1)
- (ii) Dwarka Dass, J.E. Incharge S.D.O. M.E.
(petitioner No.2)
- (iii) Sukhwinder Singh, S.D.O. Operation.

3. The petitioners being an expert were called upon to check the meters. The same were said to be 'OK' by the said Committee on checking them by the petitioners. 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;
- (ii) Kuldeep Singh, S.E. Enforcement, Ludhiana
- (iii) Tarlok Singh, Addl. S.E. Enforcement, Ludhiana
- (iv) Paramjit Singh, Addl. S.E. Enforcement, Jalandhar
(petitioner No.1.)
- (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 said Committee rechecked the meters and reported the same to be tampered and a case of pilferage of energy was reported. The said report was sent by 04 members out of 07. Following 03 officials did not endorse the report:-

- (i) Jagmohan Singh, Deputy C.E. Enforcement, Jalandhar
- (ii) Kuldeep Singh, S.E. Enforcement, Ludhiana
- (iii) Paramjit Singh, Addl. S.E. Enforcement, Jalandhar.
(petitioner No.1)

5. A preliminary inquiry was conducted in which 08 officials including the petitioners were found *prima facie* responsible. On the basis of said preliminary inquiry, chargesheet dated 19.01.2016 was issued on the

petitioners. Regular inquiry was conducted which held petitioners alongwith 06 other officials guilty of misconduct. The petitioners were served with the show cause notice alongwith the inquiry report. Finally, order dated 24.01.2018/02.02.2018 was passed imposing punishment of compulsory retirement upon the petitioners. The petitioners preferred appeal which was dismissed vide order dated 25.02.2019 (Annexure P-8).

6. Counsel for the petitioners has raised solitary contention w.r.t. parity. It has been claimed that Sukhwinder Singh, S.D.O. Operation who was part of initial Standing Committee of 03 officials to inspect the two meters has been awarded a punishment of censure, whereas petitioner No.1 has been granted much higher punishment of cut of 10% in pension for ten years and petitioner No.2 has been granted punishment of cut of 10% in pension forever. Mr. Sidhu appearing for the petitioners thus asserts that as per the settled law, the employees facing similar charges ought to have been treated equally. The petitioners cannot be single doubt for awarding extreme punishment.

7. Per contra, Mr. Sahil Sharma counsel for the respondents-Corporation with eloquence submits that it is the petitioners who are the prime guilty in the entire episode. Petitioners being responsible officials were trusted by the Corporation. However, their negligence led to embarrassment for the Corporation. Petitioners deliberately certified the meter to be 'OK' despite the fact that the same was tampered with and was leading to continuous pilferage of energy causing continuous loss to the respondents-Corporation. It has been submitted that the petitioners cannot claim parity with Sukhwinder Singh who was merely part of initial Standing

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Committee being an officer deployed in operations. It has been claimed by Mr. Sharma that there is much difference between the responsibility of enforcement staff and M.E. Lab staff vis-a-vis the officers employed in operation. Primarily in such cases, it is the officer responsible for enforcement and meter checking who have to shoulder the prime responsibility.

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 petitioners:-

“xx xx xx

1. He (Er. Paramjeet Singh) on dated 06.08.2015 through Ramesh Kaile Additional Assistant Engineer/Enforcement-1 Jalandhar got issued directions Engineer/Distribution to Assistant 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 3Ø at M.E. Lab Goraya for checking and by going beyond his jurisdiction conducted the checking of the meters concerning with Sub Divisional Phillaur, whereas the work of checking of Meters concerning with Distribution Division Phillaur was falling under the jurisdiction of Additional Superintending Engineer/Enforcement Nawanshehar. He (Er. Paramjit Singh) is responsible for above mentioned negligence.

2. He (Er. Paramjit Singh) on dated 07.08.2015 at the time of checking of Meters at M.E. Lab Goraya, Sub Division Phillaur on the basis of ME Seals and Meter

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Body being suspicious, at the time of checking of 2 Pack seal Meters of Sh. Krishan Lal Account No. GT35/196 and Sh. Rampal Account No. GT35/177A 3Ø, subject of Challan No. 36 dated 07.08.15 3Ø being written as suspicious, in the column of special remark in front of both these meters written as seals suspicious and apart from that despite mentioning checking report number by Task Force, checking of these meters were not conducted properly. He (Er. were not Paramjit Singh) had not mentioned any comments about the purity of the seals of the meter upon the report of this Challan, which goes to prove that he has not conducted the checking of purity of seals of the Meter. He (Er. Paramjit Singh) is directly responsible for above mentioned negligence.

3. He (Er. paramjit Singh) on dated 07.08.2015 at M.E. Lab Goraya at the time of checking of Meter of Sh. Rampal Account No. GT35/177 Serial No. 898576 by checking team, despite mentioning upon the LCR No. 12/2009 dated 05.08.2015 regarding Yellow phase and not blinking, not checked the working of the meter nor even in this regard mentioned any Challan. comment upon He (Er. Paramjit Singh) is directly responsible for above mentioned negligence.

4. According to the instructions of Chief Engineer/Enforcement Patiala inspection of these Meters was conducted again on dated 14.08.2015 then seals of both the Meters were found as fake, it is found that ultrasonic welding being tempered, counter covers of the Meters found open, on the basis of which both the Meters declared as case of pilferage of electricity apart from that Meter of Sh. Rampal Account No. GT35/177 Serial No were 898576 its yellow Phase and

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load side terminal has been found Heat-up and meter was found running slow to the extent of 32%. Likewise he (Er. Paramjit Singh) at the time of checking of packed meter on dated 07.08.2015 at M.E. Lab Goraya concerning Sub Division Phillaur on the basis of suspicion of pilferage, for not conducting proper checking of these meters and not declaring these concerned meters as related to pilferage is directly responsible.

So for causing above mentioned negligence/carelessness by him (Er. Paramjit Singh Additional Superintending Engineer), 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.”

Dwarka Dass

He (Dwarka Dass) during his posting as J.E./Incharge M.E. Lab Goraya, following negligence/carelessness were found while performing his official duty:-

1) He (Dwarka Dass) on dated 07.08.2015 at the time of checking of meters at M.E. Lab Goraya Distribution Sub Division Phillaur on the basis of M.E. Seals and Meter body being suspicious, during checking of 2 pack seals meters 3Ø of Sh. Krishan Lal Account No. GT35/196 and Sh. Rampal Account No. GT35/177A, subject of Challan No. 36 dated 07.08.15 3Ø being written as suspicious, in the column of special remark in front of both these meters written as seals suspicious and apart from that despite mentioning checking report number by Task Force, checking of these meters were not conducted properly. He (Dwarka Dass) had not mentioned any comments about the purity of the seals, which goes prove that he has not

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even conducted the inspection of the seals of the meter. He (Dwarka Dass) is directly responsible for above mentioned negligence.

2) He (Dwarka Dass) on dated 07.08.2015 at M.E. lab while checking Meter of Sh. Rampal Account No. GT35/177A serial Number 898576, despite the checking team mentioned the comments upon the LCR No. 12/2009 dated 05.05.2015 regarding not blinking of Yellow-phase of the meter, has not conducted checking of working of the meter nor in this regard mentioned any comments upon the challan. He (Dwaraka Dass) is directly responsible for above mentioned negligence.

3) According to the instructions of Chief Engineer/Enforcement Patiala on dated 14.08.2015 these Meters were checked again and seals of the meters were found as fake, ultrasonic welding being tempered, counter covers of the Meters found open, on the basis of which both the Meters were declared as case of pilferage and apart from that it was found that yellow phase terminal at load side is heat up in the Meter of Sh. Rampal Account No. GT35/177A serial Number 898576 and it was found that meter is running slow to the extent of 32%. Likewise He (Dwarka Dass) with malafide intention on dated 07.08.2015 at M.E. Lab Goraya at the time of checking of meter on the basis of suspicion of pilferage of electricity, for not conducting proper checking of meter and not declaring the meters related with the pilferage is directly responsible.

So for causing above mentioned negligence/carelessness by him (Sh. Dwarka Dass J.E.), 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 petitioners read as under:-

“ENGG: PARAMJIT SINGH SUPDT. ENGG.

In this case the respondent Engg: Paramjit Singh Singh was posted as Additional Supdt. Engg: Enfo. Jalandhar-1.

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 L.C.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 the respondent Engg: Paramjit Singh Additional Supdt. Engg: Enfo.-1 Jalandhar on dated 07.08.15 at M.E. Lab Goraya by going beyond his jurisdiction. Because for this checking no Senior Officer had given guidelines. Therefore, charge No. 1 leveled upon the respondent goes to prove.

(2) 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, because in the L.C.R. prepared by Task Force also comments regarding seals being suspicious were mentioned. Sh. Ramesh Kaile Additional Assistant Supdt. Engg: Enfo.

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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. The Respondent declared both these Meters in order and had not mentioned any comments about the purity of the seals; therefore, the Charge No. 2 leveled upon the respondent goes to prove.

(3) With regard to checking of the Meter of Sh. Rampal Account No. G.T-35/177A, L.C.R. Prepared by the Task Force special remarks were mentioned regarding Yellow phase and not blinking of plus marks, but the respondent during checking on dated 07.08.15 had ignored these facts and declared the Meter as okay and in this regard had not mentioned any remark upon the Challan. So the charge No. 3 leveled upon the respondent goes to prove.

(4) 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 round 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

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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. 4 leveled upon the respondent goes to prove.”

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. 3Ø Meters were Pack sealed 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

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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.

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. From the comparison of the charges levelled against Sukhwinder Singh and the petitioners, it is clear that it was the petitioner

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who checked sealed meters in dispute and declared them in order. When the meters were checked again, the seal of both the meters were found to be fake, ultrasonic welding was found to be tampered and the counter covers of the meters were found to be open. Thus, the contention raised by Mr. Sharma w.r.t. the petitioner being primarily responsible merits acceptance. Parity by a delinquent can be claimed only on demonstrating that charges levelled against him were either less graver or were same to the one charged against the other delinquent who has been dealt with soft hands. It is only then that the Court can infer discrimination. Where allegations levelled against petitioner are not at par, no parity can be claimed. Employer is at liberty to award punishment commensurating to the allegations proved. Trite it is that judgment of such superior officers who are charged with the duty of maintaining and observing discipline, deserves to be respected and should not be lightly interfered with. The scope of judicial review is limited to the fairness in the procedure adopted by the disciplinary authority and proportionality of punishment. There is no argument addressed w.r.t. fairness in the proceedings adopted by the disciplinary authority. So far as the proportionality is concerned, the argument was merely based upon parity vis-a-vis Sukhwinder Singh. This Court does not find any reason to treat the petitioner at par with Sukhwinder Singh. The punishing authority has well considered the service rendered by the petitioner and has rightly awarded him punishment of cut of 10% in pension.

13. As a sequel of discussion held hereinabove, no ground warranting interference while exercising jurisdiction under Article 226/227 of the Constitution of India is made out. Resultantly, the present writ petition is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

28.02.2023

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No