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

CWP-15113-2019

Date of decision : 28.02.2023

Kanhaiya 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 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. Petitioner herein was working as Test Mechanic 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:-

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- (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.

3. The petitioner being an expert was called upon to check the meters. The same were said to be 'OK' by the said Committee on checking them by the petitioner. 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
- (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.

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

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24.01.2018/02.02.2018 was passed imposing punishment of compulsory retirement upon the petitioner. 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 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 compulsory retirement. 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 single doubt for awarding extreme punishment of compulsory retirement.

7. Per contra, Mr. Sahil Sharma counsel for the respondents-Corporation with eloquence submits that it is the petitioner who is the prime guilty in the entire episode. Petitioner being a responsible Test Mechanic was trusted by the Corporation. However, his negligence led to embarrassment for the Corporation. Petitioner 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 petitioner cannot claim parity with Sukhwinder Singh who was merely part of initial Standing 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

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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 petitioner:-

“xx xx xx

1. He (Sh. Kaniya Singh) on dated 07.08.2015 at the time of checking of meters along with Additional Superintending Engineer/Endorcement-1, Jalandhar and Sh. Dwarka Dass J.E. M.E. Sub Division Goraya at M.E. Lab Goraya Distribution Sub Division Phillaur on the basis of M.E. Seals and Meter body being suspicions in respect 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 (Sh. Kaniya Singh) is directly responsible for above mentioned negligence.

2. 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 were declared as case of pilferage of electricity. Likewise he (Sh. Kaniya Singh) in

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connivance with Additional Superintending Engineer/Enforcement-1 Jalandhar and Sh. Dwarka Dass J.E., M.E. Sub Division Goraya on dated 07.08.2015 at M.E. Lab Goraya at the time of checking of packed meters related to Distribution Sub Division Goraya on the basis of suspicion, for not checking the seals of the meters properly and by declaring these meters in order related to pilferage of electricity is directly responsible.

So, for causing above mentioned negligence/carelessness by him (Sh. Kaniya Singh Test Mechanic), 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) SH. KANIYA SINGH TEST MECHANIC”

In this case respondent Sh.Kaniya Singh Test Mechanic was posted at M.E. Lab Goraya.

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. Engg: Paramjit Singh Additional Supdt. Engg:, Engg: Dwarka Dass J.E./Incharge M.E Goraya and Engg: Sukhwinder Singh

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Sub Divisional Officer Goraya declared these meters as okay but there were lot of errors in it to which despite respondent Sh. Kaniya Singh was fully aware of had not raised any objection in this regard because the respondent Kaniya Singh was present during the time of checking and apart from the respondent Sh. Ramesh Kaile who was present at the time of 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 had played full role in declaring both these meters as okay therefore, charge No. 1 leveled against the respondent goes to prove.

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). 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 any objection raised by the respondent during conducting of checking of these meters on dated 07.08.15 then these errors/shortcomings would have come to fore at the

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same time and case of pilferage can be declared then itself. Therefore, Charge No. 2 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 L.C.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 L.C.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

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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 petitioner, it is clear that it was the petitioner who was the Test Mechanic at M.E. Lab, Goraya. It was he who checked

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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.

13. In view of the aforesaid facts, this Court does not find any reason to grant relief to the petitioner treating him at par with Sukhwinder Singh. The punishing authority has well considered the service rendered by the petitioner and has thus rightly awarded him punishment of compulsory retirement.

14. 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