

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

CWP No.14546 of 2020

Date of decision : 28.03.2023

Lakhwinder Singh

....Petitioner

Versus

Punjab State Power Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Parminder Singh, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition filed under Article 226/227 of the Constitution of India, petitioner prays for writ in the nature of certiorari seeking quashing of the order dated 13th of December, 2018 (Annexure P-4) passed by respondent No.2 whereby two annual increments with future effect have been ordered to be stopped and further order dated 14th of May, 2020 (Annexure P-6) whereby the suspension period of the petitioner has been ordered to be treated as leave of the kind due by way of punishment.

2. Petitioner who was working as Junior Engineer with the respondent-Corporation was served with chargesheet dated 2nd of December, 2015. On the basis thereof regular departmental inquiry

was conducted wherein the petitioner has been found to be guilty. Consequent thereto the petitioner has been saddled with the major penalty of stoppage of two increments with future effect vide impugned order Annexure P-4 which stands affirmed vide order dated 14th of May, 2020 (Annexure P-6).

3. Counsel for the petitioner while referring to the charges proved against the petitioner submits that the petitioner remained at the relevant posting for the time period commencing from November, 2012 till 1st of July, 2014 whereas the shortage was detected after ten months of the petitioner having been relieved i.e. in May, 2015. He thus submits that the shortage detected after ten months cannot be read to drive-home misconducted against the petitioner.

4. Per contra, Mr. Parminder Singh, Advocate representing respondent-Corporation refers to the inquiry report which primarily is based upon the admissions made by the petitioner to the effect that material was kept by the petitioner even after having relieved of the charge and was handed over only during the course of inquiry. Mr. Parminder Singh thus submits that the inquiry officer has returned reasoned finding that too primarily based upon admission made by the delinquent which is the best piece of evidence, the procedure having been fully followed, no infirmity can be found with the action of the

respondents in punishing the petitioner.

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

6. As per the inquiry report the petitioner has been found guilty of charge No.1 and 2 as contained in chargesheet dated 2nd of December, 2016 which read as under :-

“1. That shortage of Rs.94,897/- was found for conducting the work at 11 KV U.P.S. Feeder at Manochal and the work was remain pendng on this line and the work was not completed and even after transfer of the employee the material was not handed over to the next Junior Engineer.

2. That while fixing the three pole at single line at L.T, City Feeder while giving connection to Sh. Gurnam Singh son of Sh. Gurdev Singh and Sh. Harbhej Singh son of Sh. Sardool Singh of Village Manochal Kalan Derian, the same was connected without measurement and in place of depositing the amount in the department kept the same with him.”

7. The inquiry officer while returning findings against the petitioner concluded as under :-

“That in view of the charges alleged against Sh. Lakhwinder Singh, A.J.E. (Code No.254836) and documents of the witnesses related with the charge/statement and reply given by the delinquent and on his cross examination, the undersigned has come to the conclusion that the explanation given by the delinquent against charge no.1 is not correct. The employee has admitted in his cross examination that he has drawn about the 60% material during his service vide estimate examination by no.23878. Jaininder In Dania, cross the

prosecution witness in reply to question no.5, has clarified that this work was incomplete even on the date of Technical Enquiry. In reply to question no.9, he has confirmed that even after transfer of Lakhwinder Singh A.J.E. on 01.07.2014, he has not handed over the material against the estimate. Apart from that in reply to question no.3 and 4 by the prosecution witness while cross examining the delinquent it is cleared that the conductor which was augment upto 01.07.2014, the removed 800 meter of the same conductor was returned in May, 2015 during enquiry. Apart from that 5051 meter conductor he handed over to Sh. Sarwan Singh J.E. at the time of transfer and about 1 Kilometer conductor was given to Sh. Resham Singh who colleague of private contractor, which has not been returned to the store by him till date. Therefore, charge no.1 proved against him. In reference to charge no.2 the prosecution witness Engineer Jagdish Singh, Additional Superintending Engineer/Central Store, Verka has produced his report to the court in which he submitted a copy of the affidavit of Sh. Gurnam Singh son of Sh. Baldev Singh in which the deponent has given the statement of giving Rs.35,000/- but, in the absence of any examination by the delinquent it is proved that he does not want to say anything with regard to this charge. Apart from that, in submission with regard to supply of the Dairia not delinquent, Engineer falls the Jaininder under him prosecution Dania in by the witness reply to question 11, 12 and 13 has clarified that Sh. Amarjit Kaur has stated clearly in her statement that his son Sh. Gurnam Singh has given Rs.35,000/- to Sh. Lakhwinder Singh and she has also identified Sh. Lakhwinder Singh on the spot that work of the urban supply was got done by him. In reply to Question no.16, it is clarified that although, the area of the Daria was under Sh. Sarwan Singh J.E. but during the enquiry it has been proved that the urban supply which were attached with the said Daria, the same supply was given while attaching with Manochal Transformer under 63 KVA water supply of Manochal Urban Feeder, which which was under Sh. Lakhwinder Singh therefore, this charge no.2 proved against him.

In reference to Charge No.3, the prosecution witness has not produced any record related with this, upon which it could be proved that the work done by the delinquent, registered in E.M.B No.1448 has not been got checked from the Sub Divisional officer. In this regard although it has come out that against estimate no.23878, the work is still incomplete therefore, regarding this charge it is not possible to say surely on this charge. Therefore, charge no.3 not proved against him.

3. Engineer Sukhdeep Singh, A.A.E (Code No.288194) against charge sheet no.365 dated 02.12.2015, the following are the charges alleged against him.

X X

Sd/-
Superintending Engineer-Fuel cum Enquiry
officer, PSPCL, Patiala.”

8. Trite it is that this Court while exercising writ jurisdiction cannot sit as Court of appeal to reappraise the evidence on record. The only scope of judicial review in disciplinary proceedings is *qua* the finding which is so perverse that it pricks the conscience of a common man and/or wherever the punishment is found to be disproportionate *viz-a-viz* the charge proved.

9. In view of the above, after going through the inquiry report this Court finds that neither the findings recorded by the inquiry officer are such that belie ordinary prudence nor the punishment awarded to the petitioner can be said to be disproportionate to the guilt held to be

proved against the petitioner.

10. In view of the above no ground to interfere in the present writ petition is made out. Consequently, the same is ordered to be dismissed.

March 28, 2023

Dpr

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No