

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

**CWP No.1163 of 2016 (O&M)
Date of decision : 15.03.2023**

Baldev Singh

....Petitioner

Versus

The Punjab State Power Corporation Ltd. and others Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. A.S. Chadha, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition filed under Article 226/227 of the Constitution of India, the petitioner has impugned order dated 13th of October, 2014 (Annexure P-4) whereby he has been saddled with minor punishment of stoppage of two annual increments without cumulative effect.

2. Petitioner who was working as Junior Engineer with the respondent-Corporation was provided with a Foreman namely Kashmir Singh to work under him vide order dated 9th of December, 2011. Petitioner in the pleadings raised in the writ petition disputes receipt of such order. However the fact remains that Kashmir Singh, Foreman did not report for duty and the petitioner never reported the said fact to the Corporation. Owing to the aforesaid fact, the order,

Annexure P-4, imposing minor punishment on the petitioner has been passed. It has come on record that vide order dated 13th of June, 2013, medical leave of afore-stated Kashmir Singh for 73 days commencing from 9th of December, 2011 till 19th of February, 2012 was sanctioned without pay. Appeal filed by the petitioner against the punishment stands dismissed vide order dated 8th of October, 2015 (Annexure P-6) for being barred by delay of 24 days.

3. Counsel for the petitioner submits that since there was no communication of the order dated 9th of December, 2011 to the petitioner there was no occasion for him to report to the Corporation regarding non-reporting by Kashmir Singh, Foreman. He further submits that in the light of order dated 13th of June, 2013 (Annexure P-10) whereby the medical leave of Kashmir Singh stands sanctioned, no misconduct can be said to have survived against the petitioner. He thus submits that the authorities erred in imposing punishment of stoppage of two increments without cumulative effect on the petitioner and the said action deserves to be set aside being unjust and illegal.

4. Per contra, Mr. Chadha appearing for the respondents-Corporation submits that the sanctioning of leave of Kashmir Singh cannot have an effect of punting the misconduct of the petitioner. More so when sanctioning of the leave was not prior to the incident but is a subsequent event. However, he does not dispute the fact that

the sanctioning of leave has an effect of authorizing the absence of Kashmir Singh. He further submits that the petitioner cannot claim that Annexure P-8 was never communicated to him as he was telephonically informed *qua* the same.

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

6. There is no serious dispute regarding the facts. The misconduct alleged against the petitioner is that he failed to inform about unauthorized absence of Kashmir Singh. However, after sanctioning of leave of Kashmir Singh vide Annexure P-10, the absence of Kashmir Singh has been authorized and his leave stands sanctioned. Thus, in the considered opinion of this Court, the Appellate Authority ought to have considered the aforesaid fact before dismissing the appeal of the petitioner. The Appellate Authority has dismissed the appeal preferred by the petitioner merely for delay of 24 days which in the considered opinion of this Court cannot be sustained.

7. Resultantly, the order passed by the Appellate Authority, dated 8th of October, 2015 (Annexure P-6) is hereby set aside and they are directed to decide the appeal preferred by the petitioner afresh in the light of the observations made hereinabove.

8. The writ petition is disposed off in the above terms.

9. Pending application(s), if any, shall also stand disposed off.

March 15, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No