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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13620 of 2016 (O&M)

Date of decision : 09.03.2023

Hem Raj

..... Petitioner

versus

The Punjab State Power Corporation Ltd. & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. A.K.Walia, Advocate
for the petitioner.

Mr. Gursimrajnit Singh, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition, the petitioner has assailed the
impugned order dated 19.10.2015 :-

*"The Committee of Whole Time Directors after considering the details
given in the agenda passed the following resolution:-*

*"RESOLVED THAT Considering the charges leveled, magnitude of
punishment awarded appeal of the official and report of Director/Distribution
given after personal hearing to the official in respect of his appeal against
Office Order No. 484/D-9536/T-1 Dt: 04.09.2012 the Committee found that
the punishment on the higher side and revised the punishment of stoppage of
Two AGI with future effect to stoppage of One AGI with future effect of Sh.
Hem Raj, RA."*

*Therefore, the PSPCL while considering the appeal filed by Sh. Hem
Raj, RA against office order No. 484 dated 4.9.2012, hereby decides to revise
the punishment of withholding two increments with cumulative effect and order
the withholding of one increment with cumulative effect."*

Learned counsel for the petitioner contends that right from the beginning the petitioner was wrongly charge-sheeted. The matter pertains to checking of the connections of one Makhan Singh S/o Gurmail Singh and Gurmail Singh S/o Nirbhai Singh who were having domestic connections. The connections of the consumers were checked by Balwinder Singh, J.E. In the case of Makhan Singh the connection was checked by Balwinder Singh, J.E. and the consumer was served with the notice of theft of electricity of Rs.38,801/-. On the request made by consumer, Er. Ramesh Kumar, A.E. re-checked the connection and the amount was refunded. However, the same amount of Rs.38,801/- was again charged to the consumer after it was checked by the Technical Audit, Patiala. But as per decision taken by Superintendent Engineer/DS Circle Sangrur an amount of Rs.3,232/- was got deposited from the consumer. Likewise in the case of Gurmail Singh S/o Nirbhai Singh an amount of Rs.30,000/- was charged to the consumer. However, on re-checking by Er. Ramesh Kumar the amount was revised to Rs.1056/-. It was on the basis of the aforesaid transactions that the petitioner was held responsible for refunding the theft charges and incurring financial loss to the Board. The relevant charge against the petitioner reads as under :-

“He (Hem Raj) is responsible for refunding the theft charges and incurring financial loss to the board. As mentioned above the employee has made serious defaults/negligence. Therefore the employee has made himself part of disciplinary action as per PSEB Regulation 1971 (Punishment and Appeal)”

The petitioner filed reply to the charges wherein he claimed that being a Revenue Accountant the amount was calculated on the basis of load checked as per the supply code. It was further submitted that Superintendent Engineer/DS Circle Sangrur which is a much superior authority decided that an

amount of Rs.3,232/- is recoverable in the case of Makhan Singh and thus it was not within the domain of the petitioner as an Accountant to answer the same. However, in the final inquiry report it was held that the petitioner applied the DS tariff instead of NRS tariff and calculated the amount which was not proper on his part without scrutinizing the checking report.

Learned counsel for the petitioner in view of the aforesaid submits that the petitioner was merely working as Revenue Accountant and could not have sat over as an appellate/reviewing authority over an order passed by Superintendent Engineer/DS Circle Sangrur, who in his capacity as quasi-legal authority under the Electricity Act, 2003 decided the objections of the consumer and held an amount of Rs.3,232/- to be recoverable. Thus no fault can be found with the action of the petitioner. It has been further contended that the charge-sheet to the petitioner was issued charging him as the employee responsible for refunding the theft charges and incurring financial loss to the Board whereas in finding it has been held that the financial loss has been caused to the Board by the petitioner after applying DS tariff instead of NRS tariff.

Per contra, learned counsel for the respondents submits that the order passed by the Superintendent Engineer/DS Circle Sangrur was also based upon the calculations made by the petitioner and the tariff as suggested though he admits that so far as charge-sheet is concerned there is no allegation against the petitioner with respect to applying a wrong tariff. He also would not dispute that as per the charges levelled in the charge-sheet the person responsible for refund of the amount to the consumer if any was Er. Ramesh Kumar on whose rechecking the amounts were refunded. Learned counsel for the respondents also does not dispute that Superintendent Engineer/DS Circle

Sangrur ordered refund and saddled the consumer with an amount of Rs.3,232/- only while exercising his powers under the provisions of Electricity Act, 2003 read with Supply Code.

In view of the aforesaid fact once the petitioner was not even charged with the allegation of applying wrong tariff and thereby causing financial loss, the finding with respect to the same in the absence of charge cannot be sustained.

Resultantly, the present writ petition is allowed. Order of punishment whereby the petitioner has been saddled with the punishment of stoppage of withholding of one increment with cumulative effect (Annexure P-7) cannot be sustained and is hereby ordered to be set aside.

Ordered accordingly.

(PANKAJ JAIN)
JUDGE

09.03.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No