

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

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CWP-24509-2014

Date of decision: 14.11.2023

RATTAN CHAND**...Petitioner****VERSUS****PUNJAB STATE POWER CORPORATION LIMITED & ORS****...Respondents****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: None for the petitioner.

Mr. Naveen S. Bhardwaj, Advocate
for the respondents.

DEEPAK MANCHANDA, J.(ORAL)

The instant petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned orders bearing No.341/D-10142/T-1 dated 28.5.2014 (Annexure P-3) issued by The Deputy Secretary (Technical-1) office of the Deputy Chief Engineer (Technical), T-1, Punjab State Power Corporation Limited, The Mall, Patiala. Respondent No.4 ordering cut in the normal pension admissible to the petitioner @ 10% for a period of 1 year under the provisions of Punjab State Power Corporation Limited (Punishment and Appeal) Regulations, 1971, the aforesaid orders being void, illegal, against law and facts, in contravention of the provisions of the aforesaid Regulations as also against the principles of natural justice liable to be set aside in this petition. Further direct the respondents to restore the cut in the pension as mentioned in the impugned order and to refund/pay the necessary amount

admissible to the petitioner along with interest on the same @ 18% per annum from the date of admissibility till payment.

A perusal of case file shows that the petitioner had joined service under the Punjab State Electricity Board, Patiala (now defunct). Later on, upon the abolition of the aforesaid Board, the necessary functions of the Board and the assets and liabilities thereof were taken over by the PSPCL and the latter is virtually the successor of the Board and upon abolition of PSEB, the services of the petitioner were also transferred to the PSPCL and the petitioner was serving under the respondents as Head Draftsman when he retired from service on 31.12.2010 on attaining the age of superannuation. However, after retirement of the petitioner from service, a show cause notice dated 25.06.2013 (Annexure P-1) was issued to the petitioner to the effect that during the tenure of his service, while serving as a Head Draftsman in the Urban Division, PSPCL Batala, a complaint was allegedly made by Amrik Singh on behalf of Welfare Association, Batala and on enquiry into that complaint, it transpired that on 30.03.2009, a truck bearing registration No.PB-06-H-8908 rammed into 11KV Dharampura Feeder of the Corporation, as a result of which, there was some loss to the electricity poles and some other property. After the occurrence, aforesaid truck was seized by the police post, Urban Estate, Batala and on the basis of the necessary correspondence made in the case, loss that occurred to the PSPCL was to be recovered from the owner of the aforesaid truck. However, the petitioner got necessary allocation made from Head 74.5 of the Corporation without getting the estimates checked/approved. Further on enquiry made by the Enquiry Officer, it transpired that the petitioner withdrew necessary material from the stores of Corporation and restored the electricity supply of the aforesaid

feeder by getting necessary estimates passed without getting the necessary allocation checked/approved and that all this was done with some ill motive and in violation of the instructions of the Department and he was liable for the same under Regulation 10 read with Regulation 5 (i-iv) of the Punjab State Electricity Board Regulations.

In reply to that show cause notice issued by the Department, the petitioner submitted reply dated 17.8.2013 (Annexure P-2) to the effect that necessary estimates to the tune of Rs.1,61,500/- had been prepared by the petitioner and the same were submitted to the Divisional Office, Batala vide memo No.280 dated 31.3.2009 and the same were submitted to the Superintendent, Divisional Office as well as the XEN concerned for necessary signatures and those estimates were prepared as per new CSR rates etc. The petitioner, subsequently, came to know that the consumer in this case had deposited a sum of Rs.33694/- with the Department and after submission of necessary estimates by the petitioner, the same were checked by the Senior Officers and the estimates prepared by the petitioner were found to be in order and the same were passed. Further, in case any mistake was found in the estimates prepared by the petitioner, he could be asked by the senior officers to correct/modify the same but it was actually not so which shows that the estimates were correctly prepared by the petitioner and he had no ill motive in preparing the estimates and submission of the same to the senior officers. However, the reply submitted by the petitioner to show cause notice was allegedly not found to be satisfactory and vide impugned order dated 28.5.2014 (Annexure P-3), pension cut to the tune of 10% for a period of one year was ordered to be made.

In the instant case, as stated above, the petitioner retired from service on 31.12.2010. The show cause notice has been issued to the petitioner on 25.06.2013 (Annexure P-1) long after his retirement and the same was not tenable when he had retired from service. Moreover, even the procedure as laid down in Regulation 10 read with Regulation 5 (i-iv) of the Punjab State Electricity Board Regulations was not followed. The petitioner submitted a reply dated 17.08.2013 to the show cause notice dated 25.06.2013 and if department intended to take any action on the aforesaid show cause notice, the petitioner was required to be heard on the matter before passing any punitive order but no opportunity of personal hearing was given to the petitioner before passing the impugned order regarding cut in the pension of the petitioner.

A perusal of the pleadings shows that petitioner had filed an appeal/representation dated 16.07.2014 (Annexure P-4) to the Chairman-cum-Managing Director for denying his liability which was stated to be pending and had not been decided.

Learned counsel for the respondents draws attention of this Court to the order dated 03.08.2022, wherein the petitioner had sought time to amend the present writ petition for challenging the order dated 20.12.2019 vide which the aforementioned appeal dated 06.07.2014 filed by the petitioner stands dismissed. The photocopy of the same is on record. A perusal of order sheet reveals that firstly on 03.08.2022 and secondly on 02.05.2023, no one had put in appearance on behalf of the petitioner and same is the position today. Neither there is any representation on behalf of the petitioner nor the aforesaid order dated 20.12.2019 deciding the appeal has been challenged inspite of granting opportunity to the petitioner. Since

the order dated 20.12.2019 has not been challenged by way of amendment to the petition and none appears on behalf of the petitioner, probably the petitioner has lost interest in pursuing the present petition. Though there is no representation on behalf of the petitioner, however, in the interest of justice, liberty is granted to him, in case, he wishes to challenge the said order dated 20.12.2019 either by way of amendment in the present writ petition as prayed for vide order dated 03.08.2022 or by filing a fresh one.

In view of the above, nothing remains to be adjudicated in the present petition and the same is disposed with the aforesaid liberty.

November 14, 2023
Nisha Yadav

(DEEPAK MANCHANDA)
JUDGE

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>